

## Extra Ordinary Part - VI / 2009

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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. L]

MONDAY, FEBRUARY 16, 2009/MAGHA 27, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances promulgated by the President

GOVERNMENT OF GUJARAT  
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT  
Sachivalaya, Gandhinagar, 16<sup>th</sup> February, 2009.

No. RPB/1-2009/Ord.-01-09/E :— The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 9<sup>th</sup> January, 2009 is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
(LEGISLATIVE DEPARTMENT)

New Delhi, the 9<sup>th</sup> January, 2009/Pausa 19, 1930 (Saka)

**THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT ORDINANCE, 2009**

No. 1 of 2009

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

Whereas a Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 has been introduced in the house of the People, but has not been passed.

And Whereas Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action to give effect to the provisions of the said Bill;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

#### CHAPTER 1 PRELIMINARY

1. (1) This Ordinance may be called the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009.

(2) Sections 2, 3, 4, 7, 8, 9, 10 and 13 shall be deemed to have come into force on the 1<sup>st</sup> day of January, 2006 and the remaining provisions of this Ordinance, shall be deemed to have come into force on the 1<sup>st</sup> day of September, 2008.

Short title  
and  
commencement.



## CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND  
CONDITIONS OF SERVICE)  
ACT, 1954Amendment of  
section 13A.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 13A,— 28 of 1954.

(a) in sub-section (1), for the words "thirty thousand rupees per mensem", the words "ninety thousand rupees per mensem" shall be substituted;

(b) in sub-section (2), for the words "twenty-six thousand rupees per mensem", the words "eighty thousand rupees per mensem" shall be substituted.

Amendment of  
section 17A.

3. In section 17A of the High Court Judges Act, in sub-section (1),—

(a) the words "plus fifty per cent. of his dearness pay" shall be omitted.

(b) the words "plus thirty per cent. of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month" shall be omitted;

Insertion of new  
section 17B.

4. After section 17A of the High Court Judges Act, the following section shall be inserted, namely :-

Additional  
quantum of  
pension or family  
pension.

"17B. Every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the following scale:-

Age of pensioner or family pensioner	Additional quantum of pension or family pension
From eighty years to less than eighty-five years	twenty per cent. of basic pension or family pension
From eighty-five years to less than ninety years	thirty per cent. of basic pension or family pension
From ninety years to less than ninety-five years	forty per cent. of basic pension or family pension
From ninety-five years to less than hundred years	fifty per cent. of basic pension or family pension
From hundred years or more	hundred per cent. of basic pension or family pension

Amendment of  
section 22A.

5. In section 22A of the High Court Judges Act, in sub-section (2), the words "plus thirty per cent. of the dearness pay" shall be omitted.

Substitution of  
new section for  
section 22C.

6. In the High Court Judges Act, for section 22C, the following section shall be substituted, namely:-

Sumptuary  
allowance.

"22C. The Chief Justice and each of the other Judges of every High Court shall be entitled to a sumptuary allowance of fifteen thousand rupees per month and twelve thousand rupees per month respectively".

## 7. In the First Schedule to the High Court Judges Act,—

Amendment of  
First Schedule.

## (a) In Part I,—

## (i) in paragraph 2,—

(A) in clause (a), for the letters and figures "Rs.21,945", the letters and figures "Rs.43,890" shall be substituted;

(B) in clause (b), for the letters and figures "Rs.16,725", the letters and figures "Rs.34,350" shall be substituted;

(C) in the proviso, for the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000", the letters and figures "Rs. 5,40,000" and "Rs. 4,80,000" shall, respectively, be substituted;

(ii) in paragraph 8, for the letters and figures "Rs.2,70,000", the letters and figures "Rs.5,40,000" shall be substituted;

(iii) in paragraph 9, for the letters and figures "Rs.76,785", the letters and figures "Rs.1,57,670" shall be substituted;

## (b) In Part II,—

(i) in the proviso to paragraph 2, for the letters and figures "Rs.2,70,000" and "Rs.2,34,000", the letters and figures "Rs.5,40,000" and "Rs.4,80,000" shall, respectively, be substituted;

(ii) in paragraph 3, for the figures "16,898", "20,280", "23,649", "27,033", "30,420" and "33,799", the figures "34,696", "41,642", "48,559", "55,508", "62,462" and "69,402" shall, respectively, be substituted;

## (c) In Part III, in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs.7,800", the letters and figures "Rs.16,020" shall be substituted;

(B) in the proviso, for the letters and figures "Rs.2,70,000" and "Rs.2,34,000", the letters and figures "Rs.5,40,000" and "Rs.4,80,000" shall, respectively, be substituted.

## CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND  
CONDITIONS OF SERVICE)  
ACT, 1958

41 of 1958.

8. In the Supreme Court Judges (Salaries and Conditions of Service)  
Act, 1958 (hereinafter referred to as the Supreme Court Judges Act),  
in section 12A,—Amendment of  
section 12A.

(a) in sub-section (1), for the words "thirty-three thousand rupees per mensem", the words "one lakh rupees per mensem" shall be substituted;

(b) in sub-section (2), for the words "thirty thousand rupees per mensem", the words "ninety thousand rupees per mensem"

shall be substituted.

Amendment of  
section 16A.

9. In section 16A of the Supreme Court Judges Act, in sub-section (1),—

(i) in clause (a), the words “plus fifty per cent. of his dearness pay” and “plus thirty per cent. of his dearness pay” shall be omitted;

(ii) in clause (b), the words “plus thirty per cent. of his dearness pay” shall be omitted;

Insertion of new  
section 16B.

10. After section 16A of the Supreme Court Judges Act, the following section shall be inserted, namely:—

Additional  
quantum of  
pension or family  
pension.

“16B. Every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the following scale:—

Age of pensioner or family pensioner	Additional quantum of pension or family pension
From eighty years to less than eighty-five years	twenty per cent. of basic pension or family pension
From eighty-five years to less than ninety years	thirty per cent. of basic pension or family pension
From ninety years to less than ninety-five years	forty per cent. of basic pension or family pension
From ninety-five years to less than hundred years	fifty per cent. of basic pension or family pension
From hundred years or more	hundred per cent. of basic pension or family pension

Amendment of  
section 23.

11. In section 23 of the Supreme Court Judges Act, in sub-section (1A), the words “plus thirty per cent. of the dearness pay” shall be omitted.

Amendment of  
section 23B.

12. In section 23B of the Supreme Court Judges Act, for the words “ten thousand” and “seven thousand five hundred”, the words “twenty thousand” and “fifteen thousand” shall, respectively, be substituted.

Amendment of the  
Schedule.

13. In the Schedule to the Supreme Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures “Rs.6,030”, “Rs.1,82,820” and “Rs.15,360”, the letters and figures “Rs.12,180”, “Rs.3,69,300” and “Rs.31,030” shall, respectively, be substituted;

(B) in the proviso, for the letters and figures “Rs.2,97,000”, the letters and figures “Rs.6,00,000” shall be substituted;

(ii) in the proviso to paragraph 3, for the letters and figures "Rs.2,70,000", the letters and figures "Rs.5,40,000" shall be substituted;

(b) in Part II, in paragraph 2, in clause (b), for the letters and figures "Rs.16,898", the letters and figures "Rs.33,795" shall be substituted;

(c) in Part III, in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs.7,800", the letters and figures "Rs.16,020" shall be substituted;

(B) in the proviso, for the letters and figures "Rs.2,97,000" and "Rs.2,70,000", the letters and figures "Rs.6,00,000" and "Rs.5,40,000" shall, respectively, be substituted.

#### CHAPTER IV

#### TRANSITIONAL PROVISION

14. The difference of salary, pension and family pension payable to a Judge of High Court or to his family, as the case may be, under the High Court Judges Act or a Judge of the Supreme Court or his family, as the case may be, under the Supreme Court Judges Act as amended by this Ordinance and the salary, pension or family pension payable to such Judge or his family, as the case may be, but for this Ordinance shall be paid in two installments, the first installment of forty per cent. to be paid during the current financial year 2008-09 and the remaining sixty per cent. to be paid in the financial year 2009-10.

Arrears.

Sd/-

**PRATIBHA DEVISINGH PATIL,**  
President.

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

Extra No. 2



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REGISTERED No. G/GNR/2

# The Gujarat Government Gazette

## EXTRAORDINARY

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### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/03-2008/Act-22-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 11<sup>th</sup> November, 2008./Kartika 20, 1930 (Sake)

The following Act of Parliament has received the assent of the President the 11<sup>th</sup> November, 2008, is hereby published for general information :-

### THE INDIAN MARITIME UNIVERSITY ACT, 2008

An Act

(Act No. 22 of 2008)

[11<sup>th</sup> November, 2008]

*to establish and incorporate a teaching and affiliating University at the national level to facilitate and promote maritime studies and research and to achieve excellence in areas of marine science and technology, marine environment and other related fields, and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Maritime University Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and  
commence-  
ment.

## Definitions.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

- (a) "Academic Council" means the Academic Council of the University;
- (b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;
- (c) "Board of Affiliation and Recognition" means Board of Affiliation and Recognition of the University;
- (d) "Board of Studies" means the Board of Studies of the University;
- (e) "Campus" means the unit established or constituted by the University for making arrangements for instruction, research, education and training;
- (f) "Certificate of Competency" means a certificate issued by the competent authority under the Merchant Shipping Act, 1958;
- (g) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;
- (h) "College" means a college maintained by or admitted to the privileges of the University for imparting education and training in maritime studies or in its associated disciplines;
- (i) "Court" means the Court of the University;
- (j) "Department" means a Department of Studies; and includes a Centre of Studies;
- (k) "Director-General" means the Director-General of Shipping appointed by the Government of India under section 7 of the Merchant Shipping Act, 1958;
- (l) "Distance Education System" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes, e-learning or the combination of any two or more such means;
- (m) "Employee" means any person appointed by the University and includes teachers and other staff including deputationists of the University;
- (n) "Executive Council" means the Executive Council of the University;
- (o) "Finance Committee" means the Finance Committee of the University;
- (p) "Governing Body" in relation to a college or an institution, means the Governing Body or any other body, by whatever name called, charged with the management of the affairs of such college or institution, as the case may be, and recognised as such by the University;
- (q) "Hall" means a unit of residence for the students of the University, or of a College or an Institution, maintained by the University;
- (r) "Institution" means an institution, school, college or centre of studies maintained by or admitted to the privileges of the University for imparting education and training in maritime studies or in its associated disciplines;
- (s) "Notification" means a notification published in the Official Gazette;
- (t) "Off-shore Campus" means an institution, college, centre, school or campus of the University, that could be established outside the country;
- (u) "Planning Board" means the Planning Board of the University;

44 of 1958.

44 of 1958.



(v) "Principal" means the head of a college or an institution;

(w) "Recognised Institution" means an institution admitted to the privileges of the University for imparting education in maritime studies or its associated disciplines;

(x) "Recognised teachers" means such persons as are recognised by the University for the purpose of imparting instructions in a college or an institution admitted to the privileges of the University;

(y) "School" means a School of Studies of the University;

(z) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, the Ordinances and the Regulations made under this Act;

(za) "University" means the Indian Maritime University established under this Act;

(zb) "teachers of the University" means Professors, Associate Professors, Assistant Professors, Readers, Senior Lecturers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any college or institution maintained by the University; and

(zc) "University Grants Commission" means the commission established under section 4 of the University Grants Commission Act, 1956.

3 of 1956.

3. (1) There shall be established a University by the name of Indian Maritime University.

The University.

(2) The headquarters of the University shall be at Chennai with its campuses at Mumbai, Kolkata, Chennai, Vishakhapatnam and such other places within its jurisdiction as it may deem fit.

(3) The first Chancellor, the first Vice-Chancellor, the first members of the Court, the Executive Council, the Academic Council, the Planning Board and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, shall constitute the University.

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(5) The University shall be both, a teaching and an affiliating University.

4. The objects of the University shall be,—

Objects of the University.

(i) to facilitate and promote maritime studies, training, research and extension work with focus on emerging areas of studies like oceanography, maritime history, maritime laws, maritime security, search and rescue, transportation of dangerous cargo, environmental studies and other related fields, and also to achieve excellence in these and connected fields and other matters connected therewith or incidental thereto;

(ii) to promote advanced knowledge by providing institutional and research facilities in such branches of learning as it may deem fit and to make provisions for integrated courses in Science and other key and frontier areas of Technology and allied disciplines in the educational programmes of the University;

(iii) to take appropriate measures for promoting innovations in teaching-learning process, inter-disciplinary studies and research; and to pay special attention to the promotion of educational and economic interests and welfare of the people of India;

(iv) to promote freedom, secularism, equality and social justice as enshrined in the Constitution of India and to act as catalyst in socio-economic transformation by promoting basic attitudes and values of essence to national development; and

(v) to extend the benefits of knowledge and skills for development of individuals and society by associating the University closely with local, regional and national issues of development.

## Powers of the University.

**5. The University shall have the following powers, namely:—**

(i) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge;

(ii) to make provision for recognised institutions to undertake special studies;

(iii) to establish and maintain campuses, colleges, institutions, departments, laboratories, libraries, museums, centres of research, training and specialised studies;

(iv) to establish and maintain hostels, health centres and other related facilities like auditoria, playgrounds, gymnasiums, swimming pools, training ships;

(v) to provide for establishment of campuses for serving a group of recognised colleges and to provide for and maintain common resource centres in such campuses in the form of libraries, laboratories, computer centres and the like centres of learning;

(vi) to grant, subject to such conditions as the University may determine, diplomas for certificates other than Certificates of Competencies of Sea-farers, which shall continue to be issued by Director-General of Shipping, Government of India till the Central Government otherwise decides, and confer degrees and other academic distinctions on the basis of examinations, evaluation or any other method of testing on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(vii) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(viii) to organise and to undertake extra-mural studies, training and extension services;

(ix) to institute Directorships, Principalships, Professorships, Associate Professorships, Assistant Professorships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Associate Professorships, Assistant Professorships or academic positions;

(x) to provide for the terms and conditions of service of—

(i) Directors, Principals and teachers and other members of the academic staff appointed by the University;

(ii) teachers and other members of the academic staff appointed by any college or institution; and

(iii) any other employee of recognised college or institution, whether appointed by the University or such college or institution;

(xi) to appoint persons working in any other University or organisation as teachers of the University for a specified period;

(xii) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(xiii) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xiv) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xv) to create teaching, non-teaching, administrative, ministerial and other posts in the University and to make appointments thereto;

(xvi) to co-operate or collaborate or associate with any other University or authority or institution of higher learning within India or abroad, in such manner and for such purposes as the University may determine;

(xvii) to approve appointment of persons for imparting instructions in any institution admitted to the privileges of the University and to withdraw such approval;

(xviii) to inspect recognised institutions through suitable machinery established for the purpose, and to take measures to ensure that proper standards of instruction, teaching and training are maintained by them, and adequate library, laboratory, hospital, workshop and other academic facilities are provided for;

(xix) to prescribe fees and other charges to be levied on the students of self-financing colleges and institutions;

(xx) to coordinate the work of different colleges and institutions working in the same and similar areas;

(xxi) to set up central facilities like computer centre, training centre, instrumentation centre, library, simulators;

(xxii) to set up curriculum development centres for different subjects;

(xxiii) to admit to its privileges colleges and institutions, not maintained by the University, and to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes;

(xxiv) to recognise guide, supervise and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xxv) to make provision for research and advisory services and for that purpose, to enter into such arrangements with other institutions or bodies as the University may deem necessary;

(xxvi) to prescribe fees for recognising of colleges and institutions;

(xxvii) to determine standards of admission to the University which may include examination, evaluation or any other method of testing;

(xxviii) to institute and award fellowships, scholarships; studentships, assistantships, medals and prizes;

(xxix) to demand and receive payment of fees and other charges;

(xxx) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxxi) to make such special arrangements in respect of women students as the University may consider desirable;

(xxxii) to regulate the conduct of the students of the University and of colleges and institutions;

(xxxiii) to control and regulate admission of students for various courses of study in Departments, recognised institutions, schools and centres of studies;

(xxxiv) to regulate the work and conduct of the employees of the University and of the employees of the colleges and institutions;

(xxxv) to regulate and enforce discipline among the employees and students of the University and to take such disciplinary measures in this regard as may be deemed necessary;

(xxxvi) to prescribe code of conduct for managements of recognised colleges and institutions;

(xxxvii) to make arrangements for promoting the health and general welfare of the employees of the University and those of colleges and institutions;

(xxxviii) to receive benefactions, donations and gifts from persons and to name after them such chairs, institutions, buildings and the like, the University may determine, whose gift or donation to the University is worth such amount as the University may decide;

(xxxix) to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xl) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xli) to assess needs of the students in terms of subjects, fields of specialisation, levels of education and training of technical manpower, both on short and long term basis, and to initiate necessary programmes to meet these needs;

(xlii) to initiate measures to enlist the co-operation of the industry to provide complementary facilities;

(xliii) to provide for instruction through "distance learning" and "open approach" and for mobility of students from the non-formal open learning stream to the formal stream and *vice versa*;

(xliv) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objective;

(xlv) to confer autonomous status on a college or an institution or a Department, as the case may be, in accordance with the Statutes;

(xlvi) to arrange for the training to upgrade maritime standard of the employees of the industry and institutes and to levy fees for such training as prescribed by the Statutes;

(xlvii) to establish Off-shore Campus at any place outside the Country as and when it is considered necessary for advancing the aims and objectives of the University; and

(xlviii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

6. The jurisdiction of the University shall extend to the whole of India.

University open to all classes, castes and creed.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or promotion of educational interests of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Fund of the University.

8. (1) There shall be a University Fund which shall include—

(a) any contribution or grant made by the Central Government or an instrumentality of the Central Government;



- (b) any contribution or grant made by the State Governments;
- (c) any contribution from the shipping companies, off-shore construction companies and diving companies;
- (d) any bequests, donations, endowments or other grants made by any private individual or institution;
- (e) income received by the University from fees and charges; and
- (f) amounts received from any other source.

(2) The said fund shall be utilised for such purposes of the University and in such manner as may be prescribed by the Statutes and the Ordinances.

9. (1) The President of India shall be the Visitor of the University.

The Visitor.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including colleges and institutions managed by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any college, institution or Campus maintained by the University or admitted to its privileges; and also of the examinations, instruction and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, colleges or institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3), give notice to the University of his intention to cause an inspection or inquiry to be made,—

(a) to the University, if such inspection or inquiry is to be made in respect of the University or any college or institution maintained by it, or

(b) to the management of the college or institution, if the inspection or inquiry is to be made in respect of the college or institution admitted to the privileges of the University,

and the University or the management, as the case may be, shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present in person and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University, college or institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate forthwith to the Executive Council the results of the inspection or inquiry, and the views of the Visitor and the advice tendered by him upon the action to be taken thereon.

(8) The Visitor may, if the inspection or inquiry is made in respect of any college or institution admitted to the privileges of the University, address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(9) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(11) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, the Visitor shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(12) Notwithstanding anything contained in the foregoing provisions, the Visitor may give any direction to the University after giving an opportunity to the University as the circumstances warrant.

(13) The Visitor shall have such other powers as may be prescribed by the Statutes.

Officers of  
the Univer-  
sity.

10. The following shall be the officers of the University:—

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Deans of Schools;
- (5) the Directors;
- (6) the Registrars;
- (7) the Finance Officer; and
- (8) such other officers as may be declared by the Statutes to be officers of the University.

The  
Chancellor.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.

The Vice-  
Chancellor.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:



Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor may cause an inspection to be made by such person or persons as he may direct, of a college or an institution not being maintained by the University, its buildings, libraries, laboratories and equipment, and also examinations, teaching and other work conducted or done by the college or the institution and cause an inquiry to be made in the like manner, in respect of any matter connected with the administration or finance of the college or the institutions.

(6) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the statutes or the Ordinances.

13. The Pro-Vice-Chancellor shall be appointed in such manner, on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Pro-Vice-Chancellor.

14. Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Deans of Schools.

15. Every Director shall be appointed in such manner, on such terms and conditions of service, and perform such duties, as may be prescribed by the Statutes.

Directors.

16. (1) Every Registrar shall be appointed in such manner, as may be prescribed by the Statutes.

Registrars.

(2) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University.

(3) Every Registrar shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

17. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Finance Officer.

18. The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Other officers.

19. The following shall be the authorities of the University:—

Authorities of the University.

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the Planning Board;

(5) the Board of Affiliation and Recognition;

(6) the Boards of Schools;

(7) the Finance Committee; and

(8) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Court.

20. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

The Executive Council.

21. (1) The Executive Council shall be the principal executive body of the University.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.

The Academic Council.

22. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and supervision over, and be responsible for, the maintenance of standards of instruction, education and examination within the University and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it.

(2) The Academic Council shall have the right to advise the Executive Council on all academic matters.

(3) The constitution of the Academic Council and the term of office of its members shall be such as may be prescribed by the Statutes.

The Board of Affiliation and Recognition.

23. (1) The Board of Affiliation and Recognition shall be responsible for admitting colleges and institutions to the privileges of the University.

(2) The constitution of the Board of Affiliation and Recognition, the term of office of its members and its powers and duties shall be such as may be prescribed by the Statutes.

The Planning Board.

24. (1) The Planning Board shall be the principal planning body of the University.

(2) The Planning Board shall be responsible for monitoring the development of the University.

(3) The constitution of the Planning Board, term of office of its members and its powers and functions shall be prescribed by the Statutes.

The Boards of Schools.

25. (1) There shall be such number of Boards of Schools as the University may determine from time to time.

(2) The constitution, powers and functions of the Boards of Schools shall be such as may be prescribed by the Statutes.

The Finance Committee.

26. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Other authorities of the University.

27. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to make statutes.

28. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of the authorities and other bodies of the University, as may be constituted from time to time;

(b) the election and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the manner of appointment of the officers of the University, terms and conditions of service, their powers and duties and emoluments;

(d) the manner of appointment of teachers, academic staff and other employees of the University and their emoluments;

(e) the manner of appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project, their terms and conditions of service and emoluments;

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a college or an institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, colleges and institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the conditions under which colleges and institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(o) the institution of fellowships, scholarships, studentships, assistantships, medals and prizes;

(p) the delegation of powers vested in the authorities or officers of the University;

(q) the maintenance of the discipline among the employees and students; and

(r) all other matters which by this Act are to be or may be provided for by the Statutes.

29. (1) The first Statutes are those set out in the Schedule.

Statutes how  
to be made.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-section, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

30. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (f) the conditions for award of fellowships, scholarships, studentships, assistantships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;
- (j) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;
- (k) the establishment of centre of Studies, Board of Studies, Special centre, Specialised Laboratories and other Committees;
- (l) the manner of co-operation and collaboration with other Universities in India or abroad and authorities including learned bodies or associations;
- (m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

Power to  
make  
Ordinances.



- (o) the management of colleges and institutions maintained by the University;
- (p) the supervision and management of colleges and institutions admitted to the privileges of the University;
- (q) the setting up of a machinery for redressal of grievances of employees; and
- (r) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

31. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances in the manner prescribed by the Statutes, for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances.

Regulations.

32. (1) The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

Annual report.

(2) The Court shall submit the annual report to the visitor along with its comments, if any.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

33. (1) The annual accounts and balance sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

Annual accounts.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the visitor and the Court along with the observations, if any, of the Executive Council.

(3) Any observation made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

34. (1) The University shall enter into written contract of service with every employee of the University appointed on regular basis or otherwise and the terms and conditions of the contract shall not be inconsistent with the provisions of this Act, the Statutes and the Ordinances.

Conditions of service of employees.

(2) A copy of the contract referred to in sub-section (1) shall be kept with the University and a copy thereof shall also be furnished to the employee concerned.

35. (1) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

Tribunal of Arbitration.

(2) The decision of the Tribunal of Arbitration shall be final and binding on the parties.

(3) Every request made by the employee under sub-section (1), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(4) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

36. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of section 35 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

37. Every employee or student of the University or of a college or institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes to the Executive Council against the decision of any officer or authority of the University or of the Principal of any college or institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and pension funds.

38. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925 shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

Disputes as to constitution of University authorities and bodies.

39. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Constitution of Committees.

40. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Filling of casual vacancies.

41. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person of whose place he fills would have been a member.

Proceedings of University authorities or bodies not invalidated by vacancies.

42. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.



43. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

44. A copy of any receipt, application, notice, order, proceedings, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

Mode of proof of University record.

1 of 1872.

45. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

46. Notwithstanding anything contained in this Act and the Statutes,—

Transitional provisions.

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(b) the first Registrar and the first Finance Officer shall be appointed by the Visitor on the recommendation of the Vice-Chancellor and each of the said officers shall hold office for a term of two years;

(c) the first Court and the first Executive Council shall consist of not more than fifteen members, who shall be nominated by the Visitor and they shall hold office for a term of two years;

(d) (i) the first Planning Board shall consist of not more than fifteen members, who shall be nominated by the Visitor out of a panel submitted by the Vice-Chancellor and they shall hold office for a term of two years; and

(ii) the first Planning Board shall, in addition to the powers and functions conferred on it by this Act, exercise the powers of the Academic Council, until the Academic Council is constituted under the provisions of this Act and the Statutes, and in the exercise of such powers, the Planning Board may co-opt such members as it may decide:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held that office, if such vacancy had not occurred.

47. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute,

Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

Completion of courses of studies in colleges or institutions affiliated to the University.

48. Notwithstanding anything contained in this Act, or in the Statutes or the Ordinances, any student of a college or an institution, who, immediately before the admission of such college or institution to the privileges of the University, was studying for a degree, diploma or certificate of any University constituted under any Act, shall be permitted by the University, to complete his course for that degree, diploma or certificate, as the case may be, and the University shall provide for the instructions and examination of such student in accordance with the syllabus of studies of such college or institution or University, as the case may be.

Transfer of assets and options of the employees.

49. Notwithstanding anything contained in this Act, or in the Statutes or the Ordinances, consequent upon merger of the Training Ship Chanakay, Mumbai, the Marine Engineering and Research Institute, Mumbai, the Marine Engineering and Research Institute, Kolkata, Lal Bahadur Shastri College of Advance Maritime Studies, Mumbai, the National Maritime Academy, Chennai, Indian Institute of Port Management, Kolkata and the National Ship Design and Research Centre, Visakhapatnam into the Indian Maritime University, all the assets and employees shall stand transferred to the University and such employees shall have the following options:

(i) the employees of the four training institutes under Indian Institute of Maritime Studies who shall stand transferred to Indian Maritime University shall have the option to continue on deemed deputation in Indian Maritime University on the terms and conditions in force of the Central Government and also continue to retain or to be allotted government residential accommodation on turn and avail of the Central Government Health Scheme facilities till their retirement;

(ii) the employees of the National Maritime Academy, Chennai, Indian Institute of Port Management, Kolkata and the National Ship Design and Research Centre, Visakhapatnam shall have the option to continue on the terms and conditions of their respective institutes till their retirement; and

(iii) all employees shall have the option to join University as per the service conditions of the University.

Role of Central Government and Director-General of Shipping.

50. (1) The University shall, in discharge of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether a question is one of policy or not shall be final.

## THE SCHEDULE

(See section 29)

## THE STATUTES OF THE UNIVERSITY

1. (1) The Chancellor shall be appointed by the Visitor recommended by the Executive Council from amongst three persons of eminence in the field of academic, maritime, public administration, or public life of the country:

The  
Chancellor.

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

2. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons having experience in the field of human resource management, maritime, public administration, marine or port administration:

The Vice-  
Chancellor.

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1), shall consist of three persons, none of whom shall be an employee of the University or the Academic Council or a member of the Court, the Executive Council, Planning Board or member of any authority of the University or connected with an institution recognised by or associated with the University and out of the three persons, one shall be nominated by the Executive Council, one by the Court and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) The Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(ii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time:

Provided that where an employee of the University or a college or an institution maintained by or affiliated to it, or of any other University or any institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be

allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iii) The Vice-Chancellor shall be entitled to travelling allowance at such rate as may be fixed by the Executive Council.

(iv) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the 1st day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(v) In addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor attends to the duties of his office, as the case may be.

Powers and  
duties of the  
Vice-Chancel-  
lor.

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council, the Planning Board, Board of Affiliation and Recognition and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he may deem fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meeting of the Executive Council, the Academic Council, the Planning Board and the Finance Committee.

(7) The Vice-Chancellor shall have the power to make short-term appointments with the approval of the Executive Council, for a period of six months of such persons as he may consider necessary for the functioning of the University.



4. (1) Every Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Pro-Vice-Chancellor.

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for reappointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until a new Vice-Chancellor or the Vice-Chancellor, as the case may be, assumes office:

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed shall cease to hold office as such as soon as a Vice-Chancellor is appointed and enters upon his office.

(3) (a) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be laid down by the Ordinances.

(b) The salary of the Pro-Vice-Chancellor shall be decided by the Executive Council with the approval of the Visitor.

(c) The Pro-Vice-Chancellor shall be entitled without payment of rent, to the use of a furnished residence throughout his tenure of office and no charge shall fall on the Pro-Vice-Chancellor personally in respect of maintenance of such residence.

(d) In addition to the salary specified in sub-clause (b), a Pro-Vice-Chancellor shall be entitled to such leave, benefits and other allowances as admissible to the employees of the University from time to time.

(e) The Pro-Vice-Chancellor shall be entitled to such terminal benefits as may be fixed by the Executive Council from time to time.

(f) The Pro-Vice-Chancellor shall be entitled to subscribe to the contributory provident fund of the University till the end of his tenure:

Provided that when an employee of the University or a college or an institution or of any other University or institution maintained or affiliated to such other University is appointed as Pro-Vice-Chancellor, his salary shall be fixed after taking into consideration the salary of such person.

(4) A Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

5. (1) Every Registrar shall be appointed by the Executive Council on the

Registrars.

recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University:

Provided that a nominee of the Court shall also be included in the Selection Committee.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment for one more term.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty-two years.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence, or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose upon them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty on an employee.

(6) The Executive Council shall designate any Registrar to act *ex officio* in one or more of the following capacities, namely:—

- (i) Secretary to the Court;
- (ii) Secretary to the Executive Council;
- (iii) Secretary to the Academic Council;
- (iv) Secretary to the Board of Affiliation and Recognition; and
- (v) Secretary to the Planning Board.

(7) It shall be the duty of the Registrar so designated in relation to the authority concerned to—

(a) be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) issue all notices convening meetings of that authority and the Committees appointed by it;

(c) keep the minutes of all the meetings of that authority and the Committees appointed by it;

(d) conduct the official correspondence of the Court, the Executive Council, the Academic Council, the Planning Board and the Board of Affiliation and Recognition;

(e) arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;



(f) supply to the Visitor copies of the agenda of meetings of the authorities of the University as soon as they are issued; and the minutes of such meetings;

(g) represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(h) perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the Executive Council or the Vice-Chancellor.

6. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

The Finance  
Officer.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment for one more term.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be laid down by the Ordinances:

Provided that a Finance Officer shall retire on attaining the age of sixty-two years.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances:

Provided that the Finance Officer shall not make any expenditure or make any investment exceeding one lakh rupees without the prior approval of the Executive Council.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council after they have been considered by the Finance Committee;

(d) keep a constant watch on the state of the cash and balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories, colleges and institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor, unauthorised expenditure or any other financial irregularities and suggest appropriate action against persons at fault; and

(h) call for from any office, Centre, Laboratory, college or institution maintained by the University any information that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

Deans of  
Schools of  
Studies.

7. (1) Every Dean of a School of Studies shall be appointed by the Vice-Chancellor from among the Professors in the School for a period of three years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that if at any time there is no Professor in a School, the Vice-Chancellor, or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the School.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Heads of  
Departments.

8. (1) In the case of Departments which have more than one Professor, the Head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors on rotation basis.

(2) In the case of Departments where there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided that it shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(3) A person appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(4) A Head of a Department may resign his office at any time during his tenure of office.

(5) A Head of a Department shall perform such duties as may be prescribed by the Ordinances.

Proctors.

9. (1) Every Proctor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor and shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

(2) Every Proctor shall hold office for a term of two years and shall be eligible for reappointment.

Librarian.

10. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time officer of the University.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

11. (1) The Executive Council shall consist of the following members, namely:—

Membership,  
Constitution,  
Quorum and  
Tenure of the  
Executive  
Council.

- (a) the Vice-Chancellor, who shall be the Chairperson *ex officio*;
- (b) the Pro-Vice-Chancellor, *ex officio*;
- (c) the Secretary of Ministry of Shipping, Road Transport and Highways (Department of Shipping), Government of India, or his nominee not below the rank of a Joint Secretary;
- (d) the Director-General of Shipping or his nominee not below the rank of a Joint Secretary;
- (e) The Chairman, Indian Port Association, New Delhi;
- (f) the Financial Adviser, Ministry of Shipping, Road Transport and Highways (Department of Shipping) Government of India, or his nominee not below the rank of a Joint Secretary;
- (g) five members to be nominated by the Visitor having special knowledge and/or practical experience in respect of maritime-education, industry, science or technology and other related subjects on the recommendation of the Vice-Chancellor, out of a panel of at least ten persons;
- (h) one member not below the rank of Joint Secretary to be appointed by the Central Government to represent the Ministry of Defence of the Central Government.
- (i) one Dean of Schools of Studies nominated by the Vice-Chancellor by rotation on the basis of seniority;
- (j) two Directors nominated by the Vice-Chancellor by rotation on the basis of seniority;
- (k) three Principals of the affiliated colleges and academic institutions nominated by the Executive Council by rotation;
- (l) one Vice-Chancellor present or former, of any technical University; and
- (m) one representative of the Government of the State where University is located.

(2) The Registrar shall be *ex officio* Secretary of the Executive Council.

(3) Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

(4) The members of the Executive Council other than *ex officio* members shall hold office for a term of three years.

(5) There shall be not less than four meetings of the Executive Council in a year and the rules of procedure for conduct of business to be followed at a meeting and such other matters in relation to meeting as may be necessary shall be such as may be prescribed by the Statutes.

12. (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

Powers and  
functions of  
the Executive  
Council.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

- (i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of

Professors, Associate Professors, Assistant Professors and other academic staff and Principals of colleges and institutions maintained by the University:

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and the emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff, as may be necessary, and the Principals of colleges and institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill the temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xi) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xii) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(xiv) to select a common seal for the University and provide for the custody and use of such seal;

(xv) to make such special arrangements as may be necessary for the residence and discipline of women students;

(xvi) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Deans, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(xvii) to institute fellowships, scholarships, studentships, assistantships, medals and prizes;

(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments; and



(xix) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

13. (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year. Meetings of the Court.

(2) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2), shall be sent to every Member of the Court at least seven days before the date of the annual meeting.

(4) Twelve Members of the Court shall form a quorum for a meeting of the Court.

(5) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(6) The Court shall consist of the following members, namely:—

*Ex Officio Members:*

- (i) the Vice-Chancellor;
- (ii) the Pro-Vice-Chancellor;
- (iii) the Deans of Schools of Studies;
- (iv) the Heads of teaching Departments who are not the Deans;
- (v) the Dean of students' Welfare;
- (vi) the Registrar;
- (vii) the Librarian;
- (viii) the Proctor;
- (ix) the Finance Officer.

*Representatives of Teachers:*

- (x) All Professors who are not Heads of teaching Departments;
- (xi) Two Readers who are not Heads of teaching Departments, by rotation according to seniority, to be appointed by the Vice-Chancellor;
- (xii) Two Lecturers by rotation according to seniority, to be appointed by the Vice-Chancellor.

*Representatives of Non-Teaching Staff:*

- (xiii) Two members of the non-teaching staff, one from among group 'D' Staff and the other from the rest, to be nominated by the Vice-Chancellor.

*Representatives of Institutions affiliated to the University*

- (xiv) One representative from the affiliated institutions who shall be the head of the institution, to be nominated by the Vice-Chancellor.

*Representatives of Parliament:*

- (xv) Five representatives of Parliament out of which three to be nominated by the Speaker of the Lok Sabha and two by the Chairman of the Rajya Sabha from amongst the Members thereof. However, consequent upon a Member of Parliament becoming a Minister or Speaker or Deputy Speaker, of the Lok Sabha or Deputy Chairman of the Rajya Sabha, his/her nomination or election to the Court of the University shall be deemed to have been terminated.



*Persons representing Industry:*

(xvi) Eleven persons representing the Maritime Industries, to be nominated by Visitor out of which one each from,— Indian National Ship Owners' Association, Maritime Association of Ship Owners and Ship Managers Association, Foreign Owners Representatives and Ship Managers Association, Ship Building Industries, Dredging Industries, Offshore Industries, Unions representing Seamen, Association of Multimodal Transport Operators of India, Indian Register of Shipping, Major and Minor Ports;

(xvii) Ten representatives of maritime States, out of which one each to be nominated by the States or Union territories.

*Other Members:*

(xviii) Members of the Executive Council, who are not authorised members of the Court.

(7) All members of the Court, other than the *ex officio* members, shall hold office for a term of three years:

Provided that a Member of Parliament shall hold office for three years or so long as he continues to be a member of the House which he represents, whichever is less.

Membership,  
Constitution,  
Quorum and  
Tenure of the  
Academic  
Council.

14. (1) The Academic Council shall consist of the following members, namely:—

- (a) the Vice-Chancellor, who shall be the Chairperson *ex officio*;
- (b) the Pro-Vice-Chancellor;
- (c) the Chief Surveyor, Directorate-General of Shipping, Ministry of Shipping, Road Transport and Highways (Department of Shipping), Government of India, or his nominee;
- (d) the Nautical Advisor, Directorate-General of Shipping, Ministry of Shipping, Road Transport and Highways (Department of Shipping), Government of India, or his nominee;
- (e) the Deans of Schools of Studies;
- (f) all Directors of University maintained Campuses;
- (g) all Heads of University teaching Departments;
- (h) one Professor from each University teaching Department by rotation on the basis of seniority to be nominated by the Vice-Chancellor;
- (i) three eminent experts in the field of maritime studies and related subjects, nominated by the Vice-Chancellor; and
- (j) two Principals of recognised colleges.

(2) The Registrar shall be *ex officio* Secretary to the Academic Council, but shall have no right to vote.

(3) Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

(4) The members of the Academic Council other than *ex officio* members, shall hold office for a term of three years.

(5) The Academic Council shall meet at least twice a year.

Powers of the  
Academic  
Council.

15. Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

- (a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instructions, co-operative teaching among colleges and institutions, evaluation of research or improvements in academic standards;
- (b) to bring about inter-School co-ordination, to establish or appoint committees or boards, for taking up projects on an inter-School basis;

(c) to consider matters of general academic interest either on its own initiative or on a reference by a School or the Executive Council and to take appropriate action thereon;

(d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowship assistantship, research assistantship and studentships, fees, concessions, corporate life and attendance;

(e) to recommend the Executive Council, the number, qualification and the emolument of the teacher and other academic staff;

(f) to recommend the Executive Council, examiners and moderators;

(g) to recommend the Executive Council, persons for award of honorary degrees; and

(h) to recommend the executive council, setting up of Chairs.

16. (1) The Planning Board shall consist of the following members, namely:—

Membership,  
Constitution,  
Quorum and  
Tenure of the  
Planning  
Board.

(a) the Vice-Chancellor, who shall be the Chairperson *ex officio*;

(b) the Pro-Vice-Chancellor;

(c) the Secretary, Department of Shipping, in the Government of India or his nominee not below the rank of a Joint Secretary;

(d) the Secretary, Ministry of Defence in the Government of India, or his nominee not below the rank of a Joint Secretary;

(e) the Director-General of Shipping, Department of Shipping, in the Government of India;

(f) the Financial Adviser, Department of Shipping, in the Government of India, or his nominee not below the rank of a Joint Secretary;

(g) two members to be nominated by the Visitor having special knowledge and/or practical experience in respect of maritime - education, industry, science or technology and other related subjects on the recommendation of the Vice-Chancellor out of a panel of at least six persons;

(h) one Dean of Schools of Studies nominated by the Vice-Chancellor by rotation on the basis of seniority;

(i) one Director of the University Campus nominated by the Vice-Chancellor by rotation on the basis of seniority;

(j) one Principal of the affiliated colleges nominated by the Executive Council by rotation; and

(k) one Vice-Chancellor present or former, of any Technical University:

Provided that the members nominated under sub-clauses (e) to (i) above shall, as far as practicable, be drawn from different faculties.

(2) The Registrar shall be the *ex officio* Secretary of the Planning Board.

(3) The conduct of the meetings of the Planning Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(4) The members of the Planning Board other than *ex officio* members, shall hold office for a term of three years.

17. (1) The Planning Board shall be the principal planning body of the University and shall be responsible for—

The Planning  
Board.

(a) reviewing the educational programmes offered by the University;

(b) organising the structure of education in the University so as to provide opportunities to students to offer different combinations of subjects appropriate for the development of personality and skills for useful work in society;

(c) creating an atmosphere and environment conducive to value oriented education; and

(d) developing new teaching-learning processes which will combine the lectures, tutorials, seminars, demonstrations, self-studies and collective practical projects.

(2) The Planning Board shall have the power to advise on the development of the University and review the progress implementation of programmes so as to ascertain whether they are on the lines recommended by it and shall also have the power to advise the Executive Council and the Academic Council on any matter in connection therewith.

(3) The Academic Council and the Executive Council shall be bound to consider the recommendations of the Planning Board and shall implement such of the recommendations as are accepted by it.

(4) Recommendations of the Planning Board as have not been accepted by the Executive Council or the Academic Council under clause (3) shall be submitted by the Vice-Chancellor along with the recommendations of the Executive Council or the Academic Council, to the Visitor for advice and the advice of the Visitor shall be implemented by the Executive Council or the Academic Council, as the case may be.

(5) The Planning Board may constitute such committees as may be necessary for planning and monitoring the programmes of the University.

Schools of  
Studies and  
Departments.

18. (1) The University shall have such Schools of Studies as may be specified by the Ordinances.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council and shall hold office for a period of three years.

(3) The powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Each School shall consist of such Departments as may be assigned to it by the Ordinances.

(b) No Department shall be established or abolished except by the Statutes:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(c) Each Department shall consist of the following members, namely:—

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Boards of  
Studies.

19. (1) Each Department shall have a Board of Post-graduate Studies and a Board of Under-graduate Studies.

(2) The Constitution of a Board of Post-graduate Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) The functions of a Board of Post-graduate Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for Post-graduate courses, but excluding research degrees;

(b) appointment of supervisors of research; and

(c) measures for the improvement of the standard of Post-graduate teaching and research;

Provided that the above functions of a Board of Post-graduate Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

(4) The constitution and functions of a Board of Under-graduate, Post-graduate and Vocational Studies and the term of its members shall be prescribed by the Ordinances.

20. (1) The Finance Committee shall consist of the following members, namely:—

Finance  
Committee.

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) three persons nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council;

(iv) three persons nominated by the Visitor; and

(v) atleast one person to be nominated by the Court.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, should be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

21. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of colleges and institutions maintained by the University.

Selection  
Committees.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, Pro-Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor	(i) The Head of Department concerned, if he is a Professor. (ii) One Professor to be nominated by the Vice-Chancellor. (iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special



1	2
	knowledge of, or interest in, the subject with which the Professor will be concerned.
Reader/Lecturer	(i) The Head of the Department concerned. (ii) One Professor to be nominated by the Vice-Chancellor. (iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in the subject with which the Reader or a Lecturer will be concerned.
Registrar, Finance Officer	(i) Two members of the Executive Council nominated by it. (ii) One person not in the service of the University nominated by the Executive Council.
Librarian	(i) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science/ Library Administration to be nominated by the Executive Council. (ii) One person not in the service of the University, nominated by the Executive Council.
Principal of college or institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the college or institution.

**NOTE:** 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence, the Pro-Vice-Chancellor shall preside at the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the persons nominated by the Executive Council under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The meeting of a Selection Committee shall be convened by the Vice-Chancellor or in his absence by the Pro-Vice-Chancellor.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Executive Council is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.



(7) Appointments to temporary posts shall be made in the manner indicated below:—

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by the regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee, for a temporary or permanent appointment, as the case may be.

22. (1) Notwithstanding anything contained in Statute 21, Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

Special mode  
of  
appointment

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner, laid down in the Ordinances.

23. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 21 for a fixed tenure on such terms and conditions as it deems fit.

Appointment  
for a fixed  
tenure.

24. (1) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

Recognised  
teachers.

(2) All applications for the recognition of teachers shall be made in such manner as may be laid down in the Ordinances.

(3) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(4) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(5) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

(6) Any person aggrieved by an order of withdrawal under clause (5) may, within three months from the date of communication to him of such order, appeal to the Executive Council which may pass such orders thereon as it thinks fit.

Committees.

25. (1) Any authority of the University may appoint as many Standing, Special or Search Committees as it may deem fit, and may appoint to such Committees, persons who are not members of such authority.

(2) Any such Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing.

Terms and conditions of service and code of conduct of the teachers, etc.

26. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

Terms and conditions of service and code of conduct of other employees.

27. All the employees of the University, other than the teachers and other academic staff of the University, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Seniority list.

28. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and, in accordance with such other principles as the Executive Council may, from time to time prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University.

29. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or the member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other



employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be or by paying three months' salary in lieu thereof; and

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

30. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Honorary  
Degrees.

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

31. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Withdrawal of  
degrees, etc.

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

32. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor:

Maintenance  
of discipline  
among  
students of  
the  
University.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student be expelled, or rusticated, for a specified period, or be not admitted to a course of study in a college, institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, college, institution or Department or a School for

one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of colleges, institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective colleges, institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such colleges, institutions, Schools and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of colleges, institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purpose.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

Maintenance  
of discipline  
among  
Students of  
colleges, etc.

33. All powers relating to discipline and disciplinary action in relation to students of a college or an institution, not maintained by the University, shall vest in the Principal of the college or institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

Admission of  
colleges, etc.,  
to the  
privilege of  
the  
University.

34. (1) Colleges and other institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council may decide on the following conditions, namely:—

(i) Every such college or institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the college or institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a college or an institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of colleges and institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the college or institution, and two teachers of the University nominated by the Executive Council.

(ii) Every such college or institution shall satisfy the Executive Council on the following matters, namely:—

(a) the suitability and adequacy of its accommodation and equipment for teaching;

(b) the qualifications and adequacy of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the college or institution; and

(e) such other matters as are essential for the maintenance of the standards of University education.

(iii) No college or institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(iv) Colleges and institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect.

(v) A college or an institution shall not, without the previous permission of the Executive Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principals of colleges or institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to colleges and institutions maintained by Government.

(3) The service conditions of the administrative and other non-academic staff of every college or institution referred to in clause (2) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to colleges and institutions maintained by Government.

(4) Every college or institution admitted to the privilege of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the Executive Council with such recommendations as it may deem fit to make.

(5) The Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the college or institution with such remarks, if any, as it may deem fit for suitable action.

(6) The Executive Council may, after consulting the Academic Council, withdraw any privileges granted to a college or an institution, at any time it considers that the college or institution does not satisfy any of the conditions on the fulfilment of which the college or institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the college or institution concerned shall be given an opportunity to represent to the Executive Council why such action should not be taken.

(7) Subject to the conditions set forth in clause (1), the Ordinances may prescribe—

(i) such other conditions as may be considered necessary;

(ii) the procedure for the admission of colleges and institutions to the privileges of the University and for the withdrawal of those privileges.

(8) the constitution of Board of affiliation and recognition and the terms of office of its members shall be prescribed by the Ordinances.

35. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Convocations.

36. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Acting  
Chairman of  
meetings.

37. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Resignation.

38. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

Disquali-  
fications.



(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent; and

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence  
condition for  
membership  
and office.

39. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall be eligible to be an officer of the University or a member of any authority of the University.

Membership  
of authorities  
by virtue of  
membership  
of other  
bodies.

40. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni  
Association.

41. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students'  
Council.

42. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(i) the Dean of Students' Welfare, who shall be the Chairman of the Students' Council;

(ii) all students who have won prizes in the previous academic year in the fields of studies, fine arts, sports and extension work;

(iii) ten students to be nominated by the Academic Council on the basis of merit in studies, sports activities and all-round development of personality;

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

Ordinances  
how to be  
made.

43. (1) The first Ordinances made under sub-section (2) of section 30 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 30 other than those enumerated in clause (n) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

44. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:— Regulations.

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations; and

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

45. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers. Delegation of powers.

46. (1) Keeping in view the outstanding nature of qualification in maritime discipline, Ministry of Shipping, Road Transport and Highways, Government of India constituted an "Equivalence Committee" with a view to consider relativity of the existing teaching posts in Equivalence Committee.

four Government Maritime Institutes (Marine Engineering and Research Institute, Kolkata and Mumbai, Lal Bahadur Shastri College of Advanced Maritime Studies and Research, Mumbai, Training Ship Chanakya, Navi Mumbai), presently under Indian Institute of Maritime Studies with equivalent posts in the proposed University. The recommendation of the committee is given in the Table below:

TABLE

(1)	(2)
Name of the present posts and pay scale and recruitment rules as per the Gazette notification	Recommendation by the 'Equivalence Committee' for recognition of post in University
Captain Superintendent/Principal/Director (Rs.18400-500-22400)	Professor
Vice Principal/Deputy/Chief Officer/Senior Engineer Officer/Senior Nautical Officer (Rs.14300-400-18300)	Associate Professor
Engineer Officer/Nautical Officer (Rs.12000-375-16500)	Assistant Professor
Senior Lecturer (Rs.12000-375-16500)	Assistant Professor
Senior Lecturer (MERI) (Rs.10000-325-15000)	Senior Lecturer
Lecturer (Rs.8000-275-13500)	Lecturer

(2) In the absence of Post-graduate and Doctoral studies in maritime discipline, the existing posts in the Institutes are deemed to be equivalent to the University posts in the appropriate scale.

(3) The qualifications for future direct recruitments shall be governed by separate Ordinances to be framed by the University.

47. The Fees shall be reviewed after every three years.

Review of fees.

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

Extra No. 3



REGISTERED No. G/GNR/2



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/07-2008/Act-26-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 5<sup>th</sup> December, 2008./Agrahayana 14, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 5<sup>th</sup> December, 2008, is hereby published for general information :-

### THE DRUGS AND COSMETICS (AMENDMENT) ACT, 2008

An Act

(Act No. 26 of 2008)

[5<sup>th</sup> December, 2008]

*further to amend the Drugs and Cosmetics Act, 1940.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Drugs and Cosmetics (Amendment) Act, 2008.

Short title  
and commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.



Insertion of  
new section  
17E.

Adulterated  
cosmetics.

2. After section 17D of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act), the following section shall be inserted, namely,—

"17E. For the purposes of this Chapter, a cosmetic shall be deemed to be adulterated,—

(a) if it consists in whole or in part, of any filthy, putrid or decomposed substance; or

(b) if it has been prepared, packed or stored under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(c) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(d) if it bears or contains, for purposes of colouring only, a colour other than one which is prescribed; or

(e) if it contains any harmful or toxic substance which may render it injurious to health; or

(f) if any substance has been mixed therewith so as to reduce its quality or strength."

Amendment  
of section 18.

3. In section 18 of the principal Act, in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely,—

"(ii) any cosmetic which is not of a standard quality, or is misbranded, adulterated or spurious;"

Amendment  
of section  
26A.

4. In section 26A of the principal Act, for the word "prohibit", the words "regulate, restrict or prohibit" shall be substituted.

Insertion of  
new section  
26B.

5. After section 26A of the principal Act, the following section shall be inserted, namely,—

"26B. Without prejudice to any other provision contained in this Chapter, if the Central Government is satisfied that a drug is essential to meet the requirements of an emergency arising due to epidemic or natural calamities and that in the public interest, it is necessary or expedient so to do, then, that Government may, by notification in the Official Gazette, regulate or restrict the manufacture, sale or distribution of such drug."

Power of  
Central  
Government to  
regulate or  
restrict,  
manufacture,  
etc., of drug in  
public interest.  
Amendment  
of section 27.

6. In section 27 of the principal Act,—

(i) in clause (a),—

(A) for the figures, letter and words "17B or which", the figures, letter and words "17B and which" shall be substituted.

(B) for the words "punishable with imprisonment for a term which shall not be less than five years but which may extend to a term of life and with fine which shall not be less than ten thousand rupees;", the words "punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than ten lakh rupees or three times value of the drugs confiscated, whichever is more:" shall be substituted.

(C) the following provisos shall be inserted, namely:—

"Provided that the fine imposed on and released from, the person convicted under this clause shall be paid, by way of compensation, to the person who had used the adulterated or spurious drugs referred to in this clause:



Provided further that where the use of the adulterated or spurious drugs referred to in this clause has caused the death of a person who used such drugs, the fine imposed on and realised from, the person convicted under this clause, shall be paid to the relative of the person who had died due to the use of the adulterated or spurious drugs referred to in this clause.

*Explanation.*—For the purposes of the second proviso, the expression "relative" means—

- (i) spouse of the deceased person; or
- (ii) a minor legitimate son, and unmarried legitimate daughter and a widowed mother; or
- (iii) parent of the minor victim; or
- (iv) if wholly dependent on the earnings of the deceased person at the time of his death, a son or a daughter who has attained the age of eighteen years; or
- (v) any person, if wholly or in part, dependent on the earnings of the deceased person at the time of his death,—
  - (a) the parent; or
  - (b) a minor brother or an unmarried sister; or
  - (c) a widowed daughter-in-law; or
  - (d) a widowed sister; or
  - (e) a minor child of a pre-deceased son; or
  - (f) a minor child of a pre-deceased daughter where no parent of the child is alive; or
  - (g) the paternal grandparent if no parent of the member is alive;";

(ii) in clause (b),—

(A) for the words "not be less than one year but which may extend to three years and with fine which shall not be less than five thousand rupees", the words "not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted;

(B) in the proviso, for the words "less than one year and of fine of less than five thousand rupees", the words "less than three years and of fine of less than one lakh rupees" shall be substituted;

(iii) in clause (c),—

(A) for the words "not be less than three years but which may extend to five years and with fine which shall not be less than five thousand rupees", the words "not less than seven years but which may extend to imprisonment for life and with fine which shall not be three lakh rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted;

(B) in the proviso, for the words "less than three years but not less than one year", the words "less than seven years but not less than three years and of fine of less than one lakh rupees" shall be substituted;

(iv) in clause (d), for the words "and with fine", the words "and with fine which shall not be less than twenty thousand rupees" shall be substituted.

Amendment  
of section  
27A.

7. In section 27A of the principal Act, for clauses (i) and (ii), the following clauses shall be substituted, namely,—

(i) any cosmetic deemed to be spurious under section 17D or adulterated under section 17E shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than fifty thousand rupees or three times the value of the cosmetics confiscated, whichever is more;

(ii) any cosmetic other than a cosmetic referred to in clause (i) in contravention of any provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both."

Amendment  
of section 28.

8. In section 28 of the principal Act, for the words "with fine which may extend to one thousand rupees or with both", the words "with fine which shall not be less than twenty thousand rupees or with both" shall be substituted.

Amendment  
of section  
28A.

9. In section 28A of the principal Act, for the words "with fine which may extend to one thousand rupees or with both", the words "with fine which shall not be less than twenty thousand rupees or with both" shall be substituted.

Amendment  
of section 29.

10. In section 29 of the principal Act, for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

Amendment  
of section 30.

11. In section 30 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

(A) for the words "not be less than two years but which may extend to six years and with fine which shall not be less than ten thousand rupees", the words "not be less than seven years but which may extend to ten years and with fine which shall not be less than two lakh rupees" shall be substituted;

(B) in the proviso, for the words "less than two years and of fine of less than ten thousand rupees", the words "less than seven years and of fine of less than one lakh rupees" shall be substituted;

(ii) in clause (b), for the words "shall not be less than six years but which may extend to ten years and with fine which shall not be less than ten thousand rupees", the words "shall not be less than ten years but which may extend to imprisonment for life and with fine which shall not be less than three lakh rupees" shall be substituted;

(iii) in clause (c), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "ten years, or with fine, or with both", the words "two years, or with fine which shall not be less than ten thousand rupees or with both" shall be substituted.

Amendment  
of section 32.

12. In section 32 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) No prosecution under this Chapter shall be instituted except by—

(a) an Inspector; or

(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government by a general or special order made in this behalf by that Government; or

(c) the person aggrieved; or

(d) a recognised consumer association whether such person is a member of that association or not.

(2) Save as otherwise provided in this Act, no court inferior to that of a Court of Session shall try an offence punishable under this Chapter."

13. After section 32A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 32B.

Compounding of certain offences.

2 of 1974.

"32B. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under clause (b) of sub-section (1) of section 13, section 28 and section 28A of this Act (whether committed by a company or any officer thereof), not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by the Central Government or by any State Government or any officer authorised in this behalf by the Central Government or a State Government, on payment for credit to that Government of such sum as that Government may, by rules made in this behalf, specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded:

Provided further that in cases of subsequent offences, the same shall not be compoundable.

(2) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the court to which he is committed or, as the case may be, before which the appeal is to be heard.

(3) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded and the offender, if in custody, shall be released forthwith."

14. In section 35 of the principal Act, in sub-section (2),—

Amendment of section 33.

(i) after clause (dd), the following clause shall be inserted, namely,—

"(dda) prescribe under clause (d) of section 17E the colour or colours which a cosmetic may bear or contain for the purposes of colouring;"

(ii) in clause (p), the word "and" occurring at the end shall be omitted;

(iii) in clause (q), the word "and" shall be inserted at the end;

(iv) after clause (q), the following clause shall be inserted, namely,—

"(r) sum which may be specified by the Central Government under section 32B."

15. In section 33-I of the principal Act,—

Amendment of section 33-I.

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) any Ayurvedic, Siddha or Unani drug—

(i) deemed to be misbranded under section 33E,

(ii) deemed to be adulterated under section 33EE, or

(iii) without a valid licence or in violation of any of the conditions thereof, as required under section 33 EEC,

shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than twenty thousand rupees or three times the value of the drugs confiscated, whichever is more;"

(ii) in clause (b), for the words "five thousand rupees", occurring at both the places, the words "fifty thousand rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted;

(iii) after clause (b), the following clause shall be inserted, namely:—

"(c) any Ayurvedic, Siddha or Unani drug in contravention of the provisions of any notification issued under section 33EED shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees or three times the value of the drugs confiscated, whichever is more.";

(b) in sub-section (2), for the words "three months and with fine which shall not be less than five hundred rupees", the words "six months and with fine which shall not be less than ten thousand rupees" shall be substituted.

Amenment of section 33J.

16. In section 33I of the principal Act,

(a) in clause (a), for the words "two thousand rupees", the words "fifty thousand rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted;

(b) in clause (b), for the words "five thousand rupees" occurring at both the places, the words "one lakh rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted;

(c) in clause (c), for the words "six months and with fine which shall not be less than one thousand rupees", the words "one year and with fine which shall not be less than twenty thousand rupees or three times the value of the drugs confiscated, whichever is more" shall be substituted.

Insertion of new sections 33KA and 33KB.

17. After section 33K of the principal Act, the following sections shall be inserted, namely,—

Disclosure of name of manufacturer, etc.

"33KA. Every person, not being the manufacturer of any Ayurvedic, Siddha or Unani drug or his agent for the distribution thereof, shall, if so required, disclose to the Inspector the name, address and other particulars of the person from whom he acquired the Ayurvedic, Siddha or Unani drug.

Maintenance of records and furnishing of information.

33KB. Every person holding a licence under clause (c) of section 33EEC shall keep and maintain such records, registers and other documents as may be prescribed and shall furnish to any officer or authority exercising any power or discharging any function under this Act such information as is required by such officer or authority for carrying out the purposes of this Act."

Amendment of section 33N.

18. In section 33N of the principal Act, in sub-section (2),—

(i) in clause (gga), the word "and" occurring at the end shall be omitted;

(ii) after clause (gga), the following clause shall be inserted, namely,—

"(ggb) prescribe the records, registers or other documents to be kept and maintained under section 33KB; and".

Amendment of section 36A.

19. In section 36A of the principal Act, for the words "all offences under this Act", the words, brackets, figures and letters "all offences (except the offences triable by the Special Court under section 36AB or Court of Session) under this Act" shall be substituted.



20. After section 36A of the principal Act, the following sections shall be inserted, namely:—

Insertion of  
new sections  
36AB, 36AC,  
36AD and  
36AE.

Special Courts.

36AB. (1) The Central Government, or the State Government, in consultation with the Chief Justice of the High Court, shall, for trial of offences relating to adulterated drugs or spurious drugs and punishable under clauses (a) and (b) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28A, section 28B and clause (b) of sub-section (1) of section 30 and other offences relating to adulterated drugs or spurious drugs, by notification, designate one or more Courts of Session as a Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification.

*Explanation.*—In this sub-section, "High Court" means the High Court of the State in which a Court of Session designated as Special Court was functioning immediately before such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

36AC. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Offences to be  
cognizable and  
non-bailable in  
certain cases.

(a) every offence, relating to adulterated or spurious drug and punishable under clauses (a) and (c) of sub-section (1) of section 13, clause (a) of sub-section (2) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28A, section 28B and sub-sections (1) and (2) of section 30 and other offences relating to adulterated drugs or spurious drugs, shall be cognizable.

(b) no person accused, of an offence punishable under clauses (a) and (c) of sub-section (1) of section 13, clause (a) of sub-section (2) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28A, section 28B and sub-sections (1) and (2) of section 30 and other offences relating to adulterated drugs or spurious drugs, shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs.

(2) The limitation on granting of bail specified in clause (b) of sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section includes also a reference to a "Special Court" designated under section 36AB.

2 of 1974.

2 of 1974.

2 of 1974.

2 of 1974.

Application of  
Code of  
Criminal  
Procedure,  
1973 to  
proceedings  
before Special  
Court.

36AD. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor: 2 of 1974.

Provided that the Central Government or the State Government may also appoint, for any case or class or group of cases, a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall have effect accordingly. 2 of 1974.

Appeal and  
revision.

36AE. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapter XXIX or Chapter XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. 2 of 1974.

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

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Government Central Press, Gandhinagar.



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/08-2008/Act-27-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 5<sup>th</sup> December, 2008. Agrahayana 14, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 5<sup>th</sup> December, 2008, is hereby published for general information :-

THE AIRPORTS ECONOMICS REGULATORY AUTHORITY OF INDIA ACT, 2008

An Act

(Act No. 27 of 2008)

[5<sup>th</sup> December, 2008]

*to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Airports Economic Regulatory Authority of India Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies to—

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of the Armed Forces or paramilitary Forces of the Union;

Short title,  
commencement  
and  
application.



(b) all private airports and leased airports;

(c) all civil enclaves;

(d) all major airports.

#### Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "aeronautical service" means any service provided—

(i) for navigation, surveillance and supportive communication thereto for air traffic management;

(ii) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;

(iii) for ground safety services at an airport;

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport;

(v) for the cargo facility at an airport;

(vi) for supplying fuel to the aircraft at an airport; and

(vii) for a stake-holder at an airport, for which the charges, in the opinion of the Central Government for the reasons to be recorded in writing, may be determined by the Authority;

(b) "airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

22 of 1934.

(c) "airport user" means any person availing of passenger or cargo facilities at an airport;

(d) "Appellate Tribunal" means the Airports Economic Regulatory Authority Appellate Tribunal established under section 17;

(e) "Authority" means the Airports Economic Regulatory Authority established under sub-section (1) of section 3;

(f) "civil enclave" means an area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(g) "Chairperson" means the Chairperson of the Authority appointed under sub-section (2) of section 4;

(h) "leased airport" means an airport in respect of which a lease has been made under section 12A of the Airports Authority of India Act, 1994;

55 of 1994.

(i) "major airport" means any airport which has, or is designated to have, annual passenger throughput in excess of one and a half million or any other airport as the Central Government may, by notification, specify as such;

(j) "Member" means a Member of the Authority and includes the Chairperson;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "private airport" has the same meaning as assigned to it in clause (nn) of section 2 of the Airports Authority of India Act, 1994;

55 of 1994.

(m) "regulations" means regulations made by the Authority under this Act;

(n) "service provider" means any person who provides aeronautical services and is eligible to levy and charge user development fees from the embarking passengers at any airport and includes the authority which manages the airport;

(o) "stake-holder" includes a licensee of an airport, airlines operating thereat, a person who provides aeronautical services, and any association of individuals, which in the opinion of the Authority, represents the passenger or cargo facility users;



55 of 1994.

(p) words and expressions used but not defined in this Act and defined in the Airports Authority of India Act, 1994 shall have the same meanings respectively assigned to them in that Act.

## CHAPTER II

## THE AIRPORTS ECONOMIC REGULATORY AUTHORITY

3. (1) The Central Government shall, within three months from the date of commencement of this Act, by notification in the Official Gazette, establish an Authority, to be known as the Airports Economic Regulatory Authority, to exercise the powers conferred on, and the functions assigned to it, by or under this Act.

Establishment of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify:

4. (1) The Authority shall consist of a Chairperson and two other Members to be appointed by the Central Government:

Composition of Authority.

Provided that whenever the Authority is deciding a matter involving a civil enclave in a defence airfield, there shall be an additional Member, not below the rank of Additional Secretary to the Government of India, to be nominated by the Ministry of Defence.

(2) The Chairperson and Members of the Authority shall be appointed by the Central Government from amongst persons of ability and integrity having adequate knowledge of, and professional experience in, aviation, economics, law, commerce or consumer affairs:

Provided that a person who is or has been in the service of Government shall not be appointed as a Member unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central or State Government for a total period of not less than three years.

(3) The Chairperson and other Members shall be whole-time Members.

(4) The Chairperson or other Members shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The Chairperson and other Members of the Authority shall be appointed by the Central Government on the recommendation of Selection Committee referred to in section 5.

5. (1) The Central Government shall, for the purpose of sub-section (6) of section 4 constitute a Selection Committee consisting of the following, namely:—

Constitution of Selection Committee to recommend Members.

(a) Cabinet Secretary

— Chairman;

(b) Secretary, in the Ministry of Civil Aviation

— Member;

(c) Secretary, Department of Legal Affairs in the Ministry of

Law and Justice

— Member;

(d) Secretary, in the Ministry of Defence

— Member;

(e) One expert to be nominated by the Ministry of Civil Aviation

— Member.

(2) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

Terms of office and other conditions of service, etc., of Chairperson and Members.

6. (1) The Chairperson and other Members, shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office, as such, after he attains —

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of any other Member, the age of sixty-two years.

*Explanation.*—For the purposes of this sub-section, a Member may be appointed as Chairperson of the Authority, but a person who has been the Chairperson shall not be eligible for appointment as a Member.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may,—

(a) relinquish his office by giving, in writing to the Central Government, a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 8.

(5) The Chairperson or any Member ceasing to hold office, as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office;

(b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or

(c) not represent any person before the Authority in any other manner.

*Explanation.*—For the purposes of this sub-section,—

(a) “employment under the Central Government or State Government” includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(b) “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Power of Chairperson.

7. The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

Removal and suspension of Members.

8. (1) The Central Government may, by order, remove from office the Chairperson or other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend any Member in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

9. (1) The Central Government may appoint a Secretary to discharge his functions under this Act.

Appointment of Secretary, experts, professionals and officers and other employees of Authority.

(2) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed.

(4) The Authority may engage, in accordance with the procedure specified by regulations such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist the Authority in the discharge of its functions under this Act.

10. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be determined by regulations.

Meetings.

(2) The Chairperson shall preside at the meeting of the Authority and if for any reason the Chairperson is unable to attend a meeting of the Authority, any other Member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (1), every Member shall have one vote.

11. All orders and decisions of the Authority shall be authenticated by signatures of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

Authentication.

12. No act or proceedings of the Authority shall be invalid merely by reason of —

(a) any vacancy in, or any defect in, the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of Authority.

### CHAPTER III

#### POWERS AND FUNCTIONS OF THE AUTHORITY

13. (1) The Authority shall perform the following functions in respect of major airports, namely:—

Functions of Authority.

(a) to determine the tariff for the aeronautical services taking into consideration—

(i) the capital expenditure incurred and timely investment in improvement of airport facilities;

- (ii) the service provided, its quality and other relevant factors;
- (iii) the cost for improving efficiency;
- (iv) economic and viable operation of major airports;
- (v) revenue received from services other than the aeronautical services;
- (vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;
- (vii) any other factor which may be relevant for the purposes of this Act:

Provided that different tariff structures may be determined for different airports having regard to all or any of the above considerations specified at sub-clauses (i) to (vii);

- (b) to determine the amount of the development fees in respect of major airports;
- (c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934;

22 of 1934.

(d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;

(e) to call for such information as may be necessary to determine the tariff under clause (a);

(f) to perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

(2) The Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined.

(3) While discharging its functions under sub-section (1) the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions, *inter alia*,—

- (a) by holding due consultations with all stake-holders with the airport;
- (b) by allowing all stake-holders to make their submissions to the authority; and
- (c) by making all decisions of the authority fully documented and explained.

14. (1) Where the Authority considers it expedient so to do, it may by order in writing—

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require to access the performance of the service provider; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1)—

(a) every office of the Government department, if such service provider is a department of the Government; or

(b) every director, manager, secretary or other officer, if such service provider is a company; or

(c) every partner, manager, secretary or other officer, if such service provider is a firm; or

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) or (c),

Powers of  
Authority to  
call for  
information,  
conduct  
investigations,  
etc.



shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to monitor the performance of the service providers as it may consider necessary for proper functioning by service providers.

15. The Authority may, for the purpose of discharge of its functions under this Act, issue, from time to time to the service providers, such directions, as it may consider necessary.

Power of Authority to issue certain directions.

16. The Authority or any other officer specially authorised by it in this behalf may enter any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

Power of seizure.

2 of 1974.

#### CHAPTER IV APPELLATE TRIBUNAL

17. The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to—

Establishment of Appellate Tribunal.

(a) adjudicate any dispute—

(i) between two or more service providers;

(ii) between a service provider and a group of consumer:

Provided that the Appellate Tribunal may, if considers appropriate, obtain the opinion of the Authority on any matter relating to such dispute:

Provided further that nothing in this clause shall apply in respect of matters—

(i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

(ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986;

(iii) which are within the purview of the Competition Act, 2002;

(iv) relating to an order of eviction which is appealable under section 28K of the Airports Authority of India Act, 1994.

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

18. (1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in clause (a) of section 17.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

Application for settlement of disputes and appeals to Appellate Tribunal.

54 of 1969.

68 of 1986.

12 of 2003.

55 of 1994.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form; verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

Composition  
of Appellate  
Tribunal.

19.(1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification in the Official Gazette, by the Central Government:

Provided that the Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

Qualifications  
for appoint-  
ment of Chair-  
person and  
Members.

20. A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation or economics or law or a person who is well-versed in the field of aviation or economics or law.

Term of office.

21. The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-five years.

22. The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Terms and conditions of service.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

23. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Vacancies.

24. (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—

Removal and resignation.

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought, on such grounds, to be removed.

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

25. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

Staff of Appellate Tribunal.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

26. If the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

Decision to be by majority.

27. The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, etc., to be public servants.

28. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Civil court not to have jurisdiction.



Procedure and  
powers of  
Appellate  
Tribunal.

29. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

5 of 1908.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, from any office;

1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it, *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*; and

(i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Right to legal  
representation.

30. The applicant or appellant may either appear in person or authorises one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

*Explanation.*— For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

38 of 1949.

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

56 of 1980.

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959, and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

23 of 1959.

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Appeal to  
Supreme  
Court.

31. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

5 of 1908.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.



(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

32. (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

Orders passed by Appellate Tribunal to be executable as a decree.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

## CHAPTER V

### FINANCE, ACCOUNTS AND AUDIT

33. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government, for information.

Budget.

34. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

Grants by Central Government.

35. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Annual statement of accounts.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

36. (1) The Authority shall furnish to the Central Government, at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

## CHAPTER VI

## OFFENCES AND PENALTIES

Penalty for wilful failure to comply with orders of Appellate Tribunal.

37. If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

Punishment for non-compliance of orders and directions under this Act.

38. Whoever fails to comply with any order or direction given under this Act, or contravenes, or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.

Punishment for non-compliance with order of Authority or Appellate Tribunal.

39. If any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV, he shall be punishable with fine which may extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

Offences by companies.

40. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" means a whole-time director in the company and in relation to a firm, means a partner in the firm.

Offences by Government Departments.

41. (1) Where an offence under this Act has been committed by any Department of Government or any of its undertakings, the Head of the Department or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, or its undertakings, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.



## CHAPTER VII

## MISCELLANEOUS

42. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Directions by  
Central  
Government.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members,  
officers and  
employees of  
Authority to  
be public  
servants.

45 of 1860.

44. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

Bar of  
jurisdiction.

45. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

Protection of  
action taken  
in good faith.

27 of 1957.  
43 of 1961.

46. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Exemption  
from tax on  
wealth and  
income.

47. No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

Cognizance of  
offences.

48. The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes and the power to make regulations), as it may deem necessary.

Delegation of  
powers.

49. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Power of  
Central  
Government  
to supersede  
Authority.

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment;

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Application of  
other laws not  
barred.

50. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make  
rules.

51. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and other Members under sub-section (2) of section 6;

(b) the form and manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of section 6;

(c) the powers and functions to be exercised or discharged by the Chairperson under section 7;

(d) the procedure for conducting any inquiry made under sub-section (2) of section 8;

(e) the salaries and allowances payable to, and the other terms and conditions of service of the Secretary, officers and other employees of the Authority under sub-section (3) of section 9;

(f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub-section (1) of section 13;



(g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of section 14;

(h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of section 18;

(i) the salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Appellate Tribunal under section 22;

(j) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of section 25;

(k) the matters in respect of which the Authority will have the powers of a civil court under clause (a) of sub-section (2) of section 29;

(l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under section 33;

(m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 35;

(n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (1) of section 36;

(o) the form and time at which the annual report shall be prepared by the Authority under sub-section (2) of section 36;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

52. (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the purposes of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of section 9;

(b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of section 10;

(c) any other matter which is required to be, or may be, specified by regulations.

53. Every rule made by the Central Government, and every regulation made by the Authority, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

54. The enactments specified in the Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Amendment of certain enactments.

Power to  
remove  
difficulties.

**55. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

**(2)** Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[See section 54]

AMENDMENT TO THE AIRCRAFT ACT, 1934

(22 OF 1934)

Section 5, sub-section (2), clause (ab), for "or revision on tariff of operators of air transport services", substitute "or revision on tariff of operators of air transport services [other than the tariff referred to in clause (a) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008]".

AMENDMENT TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)

1. Section 22A, for the portion beginning with the words "The Authority may" and ending with the words "for the purposes of—", substitute the following:—

"The Authority may,—

(i) after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport other than the major airports referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be prescribed;

(ii) levy on, and collect from, the embarking passengers at major airport referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008,

and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of— "

2. Section 41, in sub-section (2), clause (ee), for "the rate of development fees and", substitute—

"the rate of development fees in respect of airports other than major airports and".

The above Bill has been passed by the Houses of Parliament.

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

Extra No. 5



सत्यमेव जयते

REGISTERED No. G/GNR/2

# The Gujarat Government Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

Vol. L] FRIDAY, MARCH 20, 2009/PHALGUNA 29, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/14-2008/Act-33-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31<sup>st</sup> December, 2008. Pausa 9, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 30<sup>th</sup> December, 2008, is hereby published for general information :-

### THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

An Act

(Act No. 33 of 2008)

[30<sup>th</sup> December, 2008]

*to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Unorganised Workers' Social Security Act, 2008.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.



## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “employer” means a person or an association of persons, who has engaged or employed an unorganised worker either directly or otherwise for remuneration;

(b) “home-based worker” means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

(c) “identity card” means a card, document or certificate issued to an unorganised worker by the District Administration under sub-section (3) of section 10;

(d) “National Board” means the National Social Security Board for unorganised workers constituted under sub-section (1) of section 5;

(e) “notification” means a notification published in the Official Gazette;

(f) “organised sector” means an enterprise which is not an unorganised sector;

(g) “prescribed” means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be;

(h) “registered worker” means an unorganised worker registered under sub-section (3) of section 10;

(i) “Schedule” means the Schedule annexed to the Act;

(j) “State Board” means the (name of the State) State Social Security Board for unorganised workers constituted under sub-section (1) of section 6;

(k) “self-employed worker” means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

(l) “unorganised sector” means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

(m) “unorganised worker” means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to this Act; and

(n) “wage worker” means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.

## CHAPTER II

## SOCIAL SECURITY BENEFITS

Framing of scheme.

3.(1) The Central Government shall formulate and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

(a) life and disability cover;

(b) health and maternity benefits;

(c) old age protection; and

(d) any other benefit as may be determined by the Central Government.

(2) The schemes included in the Schedule 1 to this Act shall be deemed to be the welfare schemes under sub-section (1).

(3) The Central Government may, by notification, amend the Schedules annexed to this Act.

(4) The State Government may formulate and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to—

(a) provident fund;

(b) employment injury benefit;

(c) housing;

(d) educational schemes for children;

(e) skill upgradation of workers;

(f) funeral assistance; and

(g) old age homes.

4. (1) Any scheme notified by the Central Government may be—

(i) wholly funded by the Central Government; or

(ii) partly funded by the Central Government and partly funded by the State Government; or

(iii) partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government.

(2) Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to,—

(i) scope of the scheme;

(ii) beneficiaries of the scheme;

(iii) resources of the scheme;

(iv) agency or agencies that will implement the scheme;

(v) redressal of grievances; and

(vi) any other relevant matter.

Funding of  
Central  
Government  
Schemes.

### CHAPTER III

#### NATIONAL SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

5. (1) The Central Government shall, by notification, constitute a National Board to be known as the National Social Security Board to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

National  
Social Security  
Board.

(2) The National Board shall consist of the following members, namely:—

(a) Union Minister for Labour and Employment—Chairperson, *ex officio*;

(b) the Director General (Labour Welfare)—Member-Secretary, *ex officio*; and

- (c) thirty-four members to be nominated by the Central Government, out of whom —
- (i) seven representing unorganised sector workers;
  - (ii) seven representing employers of unorganised sector;
  - (iii) seven representing eminent persons from civil society;
  - (iv) two representing members from Lok Sabha and one from Rajya Sabha;
  - (v) five representing Central Government Ministries and Departments concerned; and
  - (vi) five representing State Governments.

(3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the National Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(5) The term of the National Board shall be three years.

(6) The National Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.

(8) The National Board shall perform the following functions, namely:—

(a) recommend to the Central Government suitable schemes for different sections of unorganised workers;

(b) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;

(c) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;

(d) review the progress of registration and issue of identity cards to the unorganised workers;

(e) review the record keeping functions performed at the State level;

(f) review the expenditure from the funds under various schemes; and

(g) undertake such other functions as are assigned to it by the Central Government from time to time.

#### CHAPTER IV

##### STATE SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

State Social  
Security  
Board.

6. (1) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) State Social Security Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The State Board shall consist of the following members, namely:—

(a) Minister of Labour and Employment of the concerned State—Chairperson, *ex officio*;

(b) the Principal Secretary or Secretary (Labour)—Member—Secretary, *ex officio*; and

(c) twenty-eight members to be nominated by the State Government, out of whom—

- (i) seven representing the unorganised workers;
- (ii) seven representing employers of unorganised workers;
- (iii) two representing members of Legislative Assembly of the concerned State;
- (iv) five representing eminent persons from civil society; and
- (v) seven representing State Government Departments concerned.

(3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(5) The term of the State Board shall be three years.

(6) The State Board shall meet atleast once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The members may receive such allowances as may be prescribed for attending the meetings of the State Board.

(8) The State Board shall perform the following functions, namely:—

- (a) recommend the State Government in formulating suitable schemes for different sections of the unorganised sector workers;
- (b) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;
- (c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;
- (d) review the record keeping functions performed at the District level;
- (e) review the progress of registration and issue of cards to unorganised sector workers;
- (f) review the expenditure from the funds under various schemes; and
- (g) undertake such other functions as are assigned to it by the State Government from time to time.

7. (1) Any scheme notified by the State Government may be—

- (i) wholly funded by the State Government; or
- (ii) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government.

(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.

(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

Funding of  
State  
Government  
Schemes.



Record keeping by District Administration.

8. The record keeping functions for the purpose of this Act shall be performed by the District Administration:

Provided that the State Government may direct that the record keeping function shall be performed by—

- (a) the District Panchayat in rural areas; and
- (b) the Urban Local Bodies in urban areas.

Workers facilitation centres.

9. The State Government may set up such Workers' facilitation centres as may be considered necessary from time to time to perform the following functions, namely:—

- (a) disseminate information on available social security schemes for the unorganised workers;
- (b) facilitate the filling, processing and forwarding of application forms for registration of unorganised workers;
- (c) assist unorganised worker to obtain registration from the District Administration;
- (d) facilitate the enrollment of the registered unorganised workers in social security schemes.

#### CHAPTER V

##### REGISTRATION

Eligibility for registration and social security benefits.

10. (1) Every unorganised worker shall be eligible for registration subject to the fulfilment of the following conditions, namely:—

- (a) he or she shall have completed fourteen years of age; and
- (b) a self-declaration by him or her confirming that he or she is an unorganised worker.

(2) Every eligible unorganised worker shall make an application in the prescribed form to the District Administration for registration.

(3) Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.

(4) If a scheme requires a registered unorganised worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

(5) Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.

#### CHAPTER VI

##### MISCELLANEOUS

Power of Central Government to give directions.

11. The Central Government may give directions to—

- (i) the National Board; or
- (ii) the Government of a State or the State Board of that State,

in respect of matters relating to the implementation of the provisions of this Act.

Vacancies, etc., not to invalidate proceedings.

12. No proceedings of the National Board or any State Board shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Board or, as the case may be, the State Board.

Power to make rules by Central Government.

13. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 4;

(b) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub-section (4) of section 5;

(c) the rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (6) of section 5;

(d) the allowances for attending the meetings of the National Board under sub-section (7) of section 5;

(e) the form for making an application for registration under sub-section (2) of section 10; and

(f) any other matter which is required to be, or may be, prescribed.

14. (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

Power to  
make rules by  
State  
Government.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under sub-section (4) of section 6;

(b) the rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (6) of section 6;

(c) the allowances for attending the meetings of the State Board under sub-section (7) of section 6;

(d) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 7;

(e) the form in which the application for registration shall be made under sub-section (2) of section 10; and

(f) any other matter which is required to be, or may be, prescribed.

15. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of  
rules.

(2) Every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

16. Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganised workers than those provided for them by or under this Act.

Saving of  
certain laws.

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## SCHEDULE I

[See sections 2(i) and (3)]

## SOCIAL SECURITY SCHEMES FOR THE UNORGANISED WORKERS

S. No.	Name of the Scheme
1.	Indira Gandhi National Old Age Pension Scheme.
2.	National Family Benefit Scheme.
3.	Janani Suraksha Yojana.
4.	Handloom Weavers' Comprehensive Welfare Scheme.
5.	Handicraft Artisans' Comprehensive Welfare Scheme.
6.	Pension to Master craft persons.
7.	National Scheme for Welfare of Fishermen and Training and Extension.
8.	Janshree Bima Yojana.
9.	Aam Admi Bima Yojana.
10.	Rashtriya Swasthya Bima Yojana.

## SCHEDULE II

[See section 2(m)]

S. No.	Name of the Act
1.	The Workmen's Compensation Act, 1923 (8 of 1923).
2.	The Industrial Disputes Act, 1947 (14 of 1947).
3.	The Employees' State Insurance Act, 1948 (34 of 1948).
4.	The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).
5.	The Maternity Benefit Act, 1961 (53 of 1961).
6.	The Payment of Gratuity Act, 1972 (39 of 1972).

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.



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## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/15-2008/Act-34-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31<sup>st</sup> December, 2008. Pausa 9, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2008, is hereby published for general information :-

### THE NATIONAL INVESTIGATION AGENCY ACT, 2008

An Act

(Act No. 34, of 2008)

[31<sup>st</sup> December, 2008]

*to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the National Investigation Agency Act, 2008.

(2) It extends to the whole of India and it applies also—

- (a) to citizens of India outside India;
- (b) to persons in the service of the Government wherever they may be; and
- (c) to persons on ships and aircrafts registered in India wherever they may be.

Short title,  
extent and  
application.



## Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Agency" means the National Investigation Agency constituted under section 3;

(b) "Code" means the Code of Criminal Procedure 1973;

2 of 1974.

(c) "High Court" means the High Court within whose jurisdiction the Special Court is situated;

(d) "prescribed" means prescribed by rules;

(e) "Public Prosecutor" means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 15;

(f) "Schedule" means the Schedule to this Act;

(g) "Scheduled Offence" means an offence specified in the Schedule;

(h) "Special Court" means a Special Court constituted under section 11 or, as the case may be, under section 22;

(i) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

## CHAPTER II

## NATIONAL INVESTIGATION AGENCY

## Constitution of National Investigation Agency.

3. (1) Notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special agency to be called the National Investigation Agency for investigation and prosecution of offences under the Acts specified in the Schedule.

5 of 1861.

(2) Subject to any orders which the Central Government may make in this behalf, officers of the Agency shall have throughout India in relation to the investigation of Scheduled Offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers have in connection with the investigation of offences committed therein.

(3) Any officer of the Agency of, or above, the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise throughout India, any of the powers of the officer-in-charge of a police station in the area in which he is present for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.

## Superintendence of National Investigation Agency.

4. (1) The superintendence of the Agency shall vest in the Central Government.

(2) The administration of the Agency shall vest in an officer designated as the Director-General appointed in this behalf by the Central Government who shall exercise in respect of the Agency such of the powers exercisable by a Director-General of Police in respect of the police force in a State, as the Central Government may specify in this behalf.

## Manner of constitution of Agency and conditions of service of members.

5. Subject to the provisions of this Act, the Agency shall be constituted in such manner as may be prescribed and the conditions of service of persons employed in the Agency shall be such as may be prescribed.

## CHAPTER III

## INVESTIGATION BY THE NATIONAL INVESTIGATION AGENCY

6. (1) On receipt of information and recording thereof under section 154 of the Code relating to any Scheduled Offence the officer-in-charge of the police station shall forward the report to the State Government forthwith.

Investigation  
of Scheduled  
Offences.

(2) On receipt of the report under sub-section (1), the State Government shall forward the report to the Central Government as expeditiously as possible.

(3) On receipt of report from the State Government, the Central Government shall determine on the basis of information made available by the State Government or received from other sources, within fifteen days from the date of receipt of the report, whether the offence is a Scheduled Offence or not and also whether, having regard to the gravity of the offence and other relevant factors, it is a fit case to be investigated by the Agency.

(4) Where the Central Government is of the opinion that the offence is a Scheduled Offence and it is a fit case to be investigated by the Agency, it shall direct the Agency to investigate the said offence.

(5) Notwithstanding anything contained in this section, if the Central Government is of the opinion that a Scheduled Offence has been committed which is required to be investigated under this Act, it may, *suo motu*, direct the Agency to investigate the said offence.

(6) Where any direction has been given under sub-section (4) or sub-section (5), the State Government and any police officer of the State Government investigating the offence shall not proceed with the investigation and shall forthwith transmit the relevant documents and records to the Agency.

(7) For the removal of doubts, it is hereby declared that till the Agency takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation.

7. While investigating any offence under this Act, the Agency, having regard to the gravity of the offence and other relevant factors, may—

Power to  
transfer  
investigation  
to State  
Government.

(a) if it is expedient to do so, request the State Government to associate itself with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

8. While investigating any Scheduled Offence, the Agency may also investigate any other offence which the accused is alleged to have committed if the offence is connected with the Scheduled Offence.

Power to  
investigate  
connected  
offences.

9. The State Government shall extend all assistance and co-operation to the Agency for investigation of the Scheduled Offences.

State  
Government  
to extend  
assistance to  
National  
Investigation  
Agency.

10. Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any Scheduled Offence or other offences under any law for the time being in force.

Power of  
State  
Government  
to investigate  
Scheduled  
Offences.

## CHAPTER IV

## SPECIAL COURTS

Power of  
Central  
Government  
to constitute  
Special  
Courts.

11. (1) The Central Government shall, by notification in the Official Gazette, for the trial of Scheduled Offences, constitute one or more Special Courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

(2) Where any question arises as to the jurisdiction of any Special Court, it shall be referred to the Central Government whose decision in the matter shall be final.

(3) A Special Court shall be presided over by a judge to be appointed by the Central Government on the recommendation of the Chief Justice of the High Court.

(4) The Agency may make an application to the Chief Justice of the High Court for appointment of a Judge to preside over the Special Court.

(5) On receipt of an application under sub-section (4), the Chief Justice shall, as soon as possible and not later than seven days, recommend the name of a judge for being appointed to preside over the Special Court.

(6) The Central Government may, if required, appoint an additional judge or additional judges to the Special Court, on the recommendation of the Chief Justice of the High Court.

(7) A person shall not be qualified for appointment as a judge or an additional judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge in any State.

(8) For the removal of doubts, it is hereby provided that the attainment, by a person appointed as a judge or an additional judge of a Special Court, of the age of superannuation under the rules applicable to him in the service to which he belongs shall not affect his continuance as such judge or additional judge and the Central Government may by order direct that he shall continue as judge until a specified date or until completion of the trial of the case or cases before him as may be specified in that order.

(9) Where any additional judge or additional judges is or are appointed in a Special Court, the judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Special Court among all judges including himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judge.

Place of  
sitting.

12. A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

Jurisdiction of  
Special  
Courts.

13. (1) Notwithstanding anything contained in the Code, every Scheduled Offence investigated by the Agency shall be tried only by the Special Court within whose local jurisdiction it was committed.

(2) If, having regard to the exigencies of the situation prevailing in a State if,—

(a) it is not possible to have a fair, impartial or speedy trial; or

(b) it is not feasible to have the trial without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor or a judge of the Special Court or any of them; or

(c) it is not otherwise in the interests of justice,

the Supreme Court may transfer any case pending before a Special Court to any other Special Court within that State or in any other State and the High Court may transfer any case pending before a Special Court situated in that State to any other Special Court within the State.

(3) The Supreme Court or the High Court, as the case may be, may act under this section either on the application of the Central Government or a party interested and any such application shall be made by motion, which shall, except when the applicant is the Attorney-General for India, be supported by an affidavit or affirmation.

14.(1) When trying any offence, a Special Court may also try any other offence with which the accused may, under the Code be charged, at the same trial if the offence is connected with such other offence.

Powers of  
Special Courts  
with respect  
to other  
offences.

(2) If, in the course of any trial under this Act of any offence, it is found that the accused person has committed any other offence under this Act or under any other law, the Special Court may convict such person of such other offence and pass any sentence or award punishment authorised by this Act or, as the case may be, under such other law.

15.(1) The Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Public  
Prosecutors.

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

16.(1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts that constitute such offence or upon a police report of such facts.

Procedure  
and powers of  
Special  
Courts.

(2) Where an offence triable by a Special Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is not desirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to, and in relation to, a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding one year and with fine which may extend to five lakh rupees.

(3) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(4) Subject to the other provisions of this Act, every case transferred to a Special Court under sub-section (2) of section 13 shall be dealt with as if such case had been transferred under section 406 of the Code to such Special Court.



(5) Notwithstanding anything contained in the Code, but subject to the provisions of section 299 of the Code, a Special Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

Protection  
of witnesses.

17. (1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held *in camera* if the Special Court so desires.

(2) On an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, if the Special Court is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—

- (a) the holding of the proceedings at a place to be decided by the Special Court;
- (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and
- (d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a Court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees.

Sanction for  
prosecution.

18. No prosecution, suit or other legal proceedings shall be instituted in any court of law, except with the previous sanction of the Central Government, against any member of the Agency or any person acting on his behalf in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

Trial by  
Special Court  
to have  
precedence.

19. The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall, if necessary, remain in abeyance.

Power to  
transfer cases  
to regular  
courts.

20. Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Appeals.

21. (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of period of ninety days.

22. (1) The State Government may constitute one or more Special Courts for the trial of offences under any or all the enactments specified in the Schedule.

Power of  
State  
Government  
to constitute  
Special  
Courts.

(2) The provisions of this Chapter shall apply to the Special Courts constituted by the State Government under sub-section (1) and shall have effect subject to the following modifications, namely—

(i) references to "Central Government" in sections 11 and 15 shall be construed as references to State Government;

(ii) reference to "Agency" in sub-section (1) of section 13 shall be construed as a reference to the "investigation agency of the State Government";

(iii) reference to "Attorney-General for India" in sub-section (3) of section 13 shall be construed as reference to "Advocate-General of the State".

(3) The jurisdiction conferred by this Act on a Special Court shall, until a Special Court is constituted by the State Government under sub-section (1) in the case of any offence punishable under this Act, notwithstanding anything contained in the Code, be exercised by the Court of Session of the division in which such offence has been committed and it shall have all the powers and follow the procedure provided under this Chapter.

(4) On and from the date when the Special Court is constituted by the State Government the trial of any offence investigated by the State Government under the provisions of this Act, which would have been required to be held before the Special Court, shall stand transferred to that Court on the date on which it is constituted.

## CHAPTER V

### MISCELLANEOUS

23. The High Court may, by notification in the Official Gazette, make such rules, as it may deem necessary for carrying out the provisions of this Act relating to Special Courts within its territory.

Power of  
High Courts  
to make rules.

24. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to  
remove  
difficulties.

Provided that no order shall be made, under this section after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

25. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

Power to  
make rules.

(2) In particular, and without prejudice to the generality to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of constitution of the Agency and the conditions of service of persons employed in the Agency under section 5;

(b) any other matter which is required to be, or may be, prescribed.

Laying of  
rules.

26. Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(1)(f)]

1. The Atomic Energy Act, 1962 (33 of 1962);
2. The Unlawful Activities (Prevention) Act, 1967 (37 of 1967);
3. The Anti-Hijacking Act, 1982 (65 of 1982);
4. The Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982);
5. The SAARC Convention (Suppression of Terrorism) Act, 1993 (36 of 1993);
6. The Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002 (69 of 2002);
7. The Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 (21 of 2005);
8. Offices under—
  - (a) Chapter VI of the Indian Penal Code (45 of 1860) [sections 121 to 130 (both inclusive)];
  - (b) Sections 489-A to 489-E (both inclusive) of the Indian Penal Code (45 of 1860).

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

Government Central Press, Gandhinagar.



Extra No. 7

REGISTERED No. G/GNR/2



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART - VI

Acts of Parliament and Ordinances promulgated by the President.

### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 20<sup>th</sup> March, 2009.

No. RPB/16-2008/Act-35-08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
Legislative Department

New Delhi, the 31<sup>st</sup> December, 2008. Pausa 9, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 31<sup>st</sup> December, 2008, is hereby published for general information :-

### THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2008

An Act

(Act No. 35 of 2008)

[31<sup>st</sup> December, 2008]

*further to amend the Unlawful Activities (Prevention) Act, 1967.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2008. Short title.

37 of 1967.

2. In the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the principal Act), after long title and before the enacting formula, the following preamble shall be inserted, namely:—

Insertion of Preamble.

“WHEREAS the Security Council of the United Nations in its 4385th meeting adopted Resolution 1373 (2001) on 28th September, 2001, under Chapter VII of the Charter of the United Nations requiring all the States to take measures to combat international terrorism;

AND WHEREAS Resolutions 1267 (1999), 1333 (2000), 1363 (2001), 1390 (2002), 1455 (2003), 1526 (2004), 1566 (2004), 1617 (2005), 1735 (2006) and 1822 (2008) of the Security Council of the United Nations require the States to take action against certain terrorists and terrorist organisations, to freeze the assets and other economic resources, to prevent the entry into or the transit through their territory, and prevent the direct or indirect supply, sale or transfer of arms and ammunitions to the individuals or entities listed in the Schedule;

AND WHEREAS the Central Government, in exercise of the powers conferred by section 2 of the United Nations (Security Council) Act, 1947 has made the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007; 43 of 1947.

AND WHEREAS it is considered necessary to give effect to the said Resolutions and the Order and to make special provisions for the prevention of, and for coping with, terrorist activities and for matters connected therewith or incidental thereto.”.

Amendment  
of section 2.

3. In section 2 of the principal Act,—

(i) in clause (d), the words “and includes a Special Court constituted under section 11 or under section 21 of the National Investigation Agency Act, 2008;” shall be inserted at the end;

(ii) after clause (e), the following clause shall be inserted, namely:—

“(ea) “Order” means the Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007, as may be amended from time to time;”;

(iii) in clause (g), after the words “for the purpose of a terrorist organisation”, the words “or terrorist gang” shall be inserted at the end;

(iv) for clause (h), the following clauses shall be substituted, namely:—

“(h) “property” means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents, deeds and instruments in any form including electronic or digital, evidencing title to, or interest in, such property or assets by means of bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit, cash and bank account including fund, however acquired;

“(ha) “Schedule” means the Schedule to this Act;”.

Substitution of  
new section  
for section 15.  
Terrorist act.

4. For section 15 of the principal Act, the following section shall be substituted, namely:—

“15. Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,—

(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause—

(i) death of, or injuries to, any person or persons; or

(ii) loss of, or damage to, or destruction of, property; or

(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or

(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatens to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or any other person to do or abstain from doing any act,

commits a terrorist act.

*Explanation.*—For the purpose of this section, public functionary means the constitutional authorities and any other functionary notified in the Official Gazette by the Central Government as a public functionary.”

5. After section 16 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 16A.

“16A. Whoever intentionally, by use of force or threat of use of force or by any other means, demands any bomb, dynamite or other explosive substance or inflammable substances or fire arms or other lethal weapons or poisonous or noxious or other chemicals or any biological, radiological, nuclear material or device, with the intention of aiding, abetting or committing a terrorist act, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine.”

Punishment for making demands of radioactive substances, nuclear devices, etc.

6. For section 17 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 17.

“17. Whoever, in India or in a foreign country, directly or indirectly, raises or collects funds or provides funds to any person or persons or attempts to provide funds to any person or persons, knowing that such funds are likely to be used by such person or persons to commit a terrorist act, notwithstanding whether such funds were actually used or not for commission of such act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.”

Punishment for raising funds for terrorist act.

7. In section 18 of the principal Act, for the words “incites or knowingly facilitates”, the words “incites, directs or knowingly facilitates” shall be substituted.

Amendment of section 18.

8. After section 18 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 18A and 18B.

“18A. Whoever organises or causes to be organised any camp or camps for imparting training in terrorism shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for organising of terrorist camps.

18B. Whoever recruits or causes to be recruited any person or persons for commission of a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.”

Punishment for recruiting of any person or persons for terrorist act.

9. In section 23 of the principal Act, —

Amendment of section 23.

(a) in sub-section (1), for the words “If any person with intent to aid any terrorist contravenes”, the words “If any person with intent to aid any terrorist or a terrorist organisation or a terrorist gang contravenes” shall be substituted.



(b) in sub-section (2), for the words "Any person who, with the intent to aid any terrorist", the words "Any person who with the intent to aid any terrorist, or a terrorist organisation or a terrorist gang" shall be substituted.

Amendment  
of section 24.

10. In section 24 of the principal Act, in sub-section (2), after the words "proceeds of terrorism whether held by a terrorist or", the words "terrorist organisation or terrorist gang or" shall be inserted.

Amendment of  
section 25.

11. In section 25 of the principal Act, in sub-section (5), in the *Explanation*, after clause (c), the following clause shall be inserted, namely:—

"(ca) credit or debit cards or cards that serve a similar purpose;"

Insertion of  
new sections  
43A to 43F.  
Power to  
arrest, search,  
etc.

12. After section 43 of the principal Act, the following sections shall be inserted, namely:—

43A. Any officer of the Designated Authority empowered in this behalf, by general or special order of the Central Government or the State Government, as the case may be, knowing of a design to commit any offence under this Act or has reason to believe from personal knowledge or information given by any person and taken in writing that any person has committed an offence punishable under this Act or from any document, article or any other thing which may furnish evidence of the commission of such offence or from any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under this Chapter is kept or concealed in any building, conveyance or place, may authorise any officer subordinate to him to arrest such a person or search such building, conveyance or place whether by day or by night or himself arrest such a person or search a such building, conveyance or place.

43B. (1) Any officer arresting a person under section 43A shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested and article seized under section 43A shall be forwarded without unnecessary delay to the officer-in-charge of the nearest police station.

(3) The authority or officer to whom any person or article is forwarded under sub-section (2) shall, with all convenient dispatch, take such measures as may be necessary in accordance with the provisions of the Code.

43C. The provisions of the Code shall apply, insofar as they are not inconsistent with the provisions of this Act, to all arrests, searches and seizures made under this Act.

43D. (1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),—

(a) the references to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "thirty days", "ninety days" and "ninety days" respectively; and

(b) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:

Procedure of  
arrest, seizure,  
etc.

Application of  
provisions of  
Code.

Modified appli-  
cation of  
certain  
provisions of  
the Code.



Provided also that if the police officer making the investigation under this Act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody."

(3) Section 268 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that—

(a) the reference in sub-section (1) thereof—

(i) to "the State Government" shall be construed as a reference to "the Central Government or the State Government";

(ii) to "order of the State Government" shall be construed as a reference to "order of the Central Government or the State Government, as the case may be"; and

(b) the reference in sub-section (2) thereof, to "the State Government" shall be construed as a reference to "the Central Government or the State Government, as the case may be".

(4) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person accused of having committed an offence punishable under this Act.

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is *prima facie* true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing.

43E. In a prosecution for an offence under section 15, if it is proved —

(a) that the arms or explosives or any other substances specified in the said section were recovered from the possession of the accused and there is reason to believe that such arms or explosives or other substances of a similar nature were used in the commission of such offence; or

(b) that by the evidence of the expert the finger-prints of the accused or any other definitive evidence suggesting the involvement of the accused in the offence were found at the site of the offence or on anything including arms and vehicles used in connection with the commission of such offence,

the Court shall presume, unless the contrary is shown, that the accused has committed such offence.

43F. (1) Notwithstanding anything contained in any other law, the officer investigating any offence under this Act, with the prior approval in writing of an officer not below the rank of a Superintendent of Police, may require any officer or

Presumption  
as to offence  
under section  
15.

Obligation to  
furnish  
information.

authority of the Central Government or a State Government or a local authority or a bank, or a company, or a firm or any other institution, establishment, organisation or any individual to furnish information in his or its possession in relation to such offence, on points or matters, where the investigating officer has reason to believe that such information will be useful for, or relevant to, the purposes of this Act.

(2) The failure to furnish the information called for under sub-section (1), or deliberately furnishing false information shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Notwithstanding anything contained in the Code, an offence under sub-section (2) shall be tried as a summary case and the procedure prescribed in Chapter XXI of the said Code [except sub-section (2) of section 262] shall be applicable thereto.

Amendment of section 45.

13. Section 45 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Sanction for prosecution under sub-section (1) shall be given within such time as may be prescribed only after considering the report of such authority appointed by the Central Government or, as the case may be, the State Government which shall make an independent review of the evidence gathered in the course of investigation and make a recommendation, within such time as may be prescribed, to the Central Government or, as the case may be, the State Government.”.

Insertion of new section 51A.

14. After section 51 of the principal Act, the following section shall be inserted, namely:—

“51A. For the prevention of, and for coping with terrorist activities, the Central Government shall have power to—

(a) freeze, seize or attach funds and other financial assets or economic resources held by, on behalf of or at the direction of the individuals or entities listed in the Schedule to the Order, or any other person engaged in or suspected to be engaged in terrorism;

(b) prohibit any individual or entity from making any funds, financial assets or economic resources or related services available for the benefit of the individuals or entities listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism;

(c) prevent the entry into or the transit through India of individuals listed in the Schedule to the Order or any other person engaged in or suspected to be engaged in terrorism.”.

Amendment of section 52.

15. In section 52 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

“(ee) the time within which sanction for prosecution and recommendation to the Central Government shall be given under sub-section (2) of section 45, and”.

Amendment of section 53.

16. Section 53 of the principal Act, shall be renumbered as sub-section (1) thereof and after sub-section as so renumbered, the following sub-section shall be inserted, namely:—

“(2) The Order referred to in entry 33 of the Schedule and every amendment made to that Order shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of 30 days which may be comprised in one session or in two or more successive sessions.”.

17. In the Schedule to the principal Act after entry 32, the following entry shall be inserted, namely:— Amendment  
of Schedule.

43 of 1947.

“33. Organisations listed in the Schedule to the U.N. Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007 made under section 2 of the United Nations (Security Council) Act, 1947 and amended from time to time.”.

Sd/-

**T. K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

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Government Central Press, Gandhinagar.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No.RPB/20-09/Act-4-09/E :- The following Act of Parliament is republished for general information:-

Government of India  
Ministry of Law and Justice  
Legislative Department  
New Delhi, the 9<sup>th</sup> January, 2009, Pausa 19, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 7<sup>th</sup> January, 2009, is hereby published for general information:-

#### THE GRAM NYAYALAYAS ACT, 2008

An

Act

(Act No. 4 of 2009)

[7<sup>th</sup> January, 2009]

*to provide for the establishment of Gram Nyayalayas at the grass roots level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the fifty-ninth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Gram Nyayalayas Act, 2008.

(2) It extends to the whole of India except the State of Jammu and Kashmir, the State of Nagaland, the State of Arunachal Pradesh, the State of Sikkim and to the tribal areas.

Short title,  
extent and  
commence-  
ment.

*Explanation.*—In this sub-section, the expression "tribal areas" means the areas



specified in Parts I, II, IIA and III of the Table below paragraph 20 of the Sixth Schedule to the Constitution within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram, respectively.

(3) It shall come into force on such date as the Central Government may, by notification published in the Official Gazette, appoint; and different dates may be appointed for different States.

#### Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Gram Nyayalaya" means a court established under sub-section (1) of section 3;

(b) "Gram Panchayat" means an institution (by whatever name called) of self-government constituted, at the village level, under article 243B of the Constitution, for the rural areas;

(c) "High Court" means,—

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(d) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(e) "Nyayadhikari" means the presiding officer of a Gram Nyayalaya appointed under section 5;

(f) "Panchayat at intermediate level" means an institution (by whatever name called) of self-government constituted, at the intermediate level, under article 243B of the Constitution, for the rural areas in accordance with the provisions of Part IX of the Constitution;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Schedule" means the Schedule appended to this Act;

(i) "State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) words and expressions used herein and not defined but defined in the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Codes.

5 of 1908.  
2 of 1974.

### CHAPTER II

#### GRAM NYAYALAYA

#### Establishment of Gram Nyayalayas.

3. (1) For the purpose of exercising the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits.

(3) The Gram Nyayalayas established under sub-section (1) shall be in addition to the courts established under any other law for the time being in force.

4. The headquarters of every Gram Nyayalaya shall be located at the headquarters of the intermediate Panchayat in which the Gram Nyayalaya is established or such other place as may be notified by the State Government.

Headquarters of Gram Nyayalaya.

5. The State Government shall, in consultation with the High Court, appoint a Nyayadhikari for every Gram Nyayalaya.

Appointment of Nyayadhikari.

6. (1) A person shall not be qualified to be appointed as a Nyayadhikari unless he is eligible to be appointed as a Judicial Magistrate of the first class.

Qualifications for appointment of Nyayadhikari.

(2) While appointing a Nyayadhikari, representation shall be given to the members of the Scheduled Castes, the Scheduled Tribes, women and such other classes or communities as may be specified by notification, by the State Government from time to time.

7. The salary and other allowances payable to, and the other terms and conditions of service of, a Nyayadhikari shall be such as may be applicable to the Judicial Magistrate of the first class.

Salary, allowances and other terms and conditions of service of Nyayadhikari.

8. The Nyayadhikari shall not preside over the proceedings of a Gram Nyayalaya in which he has any interest or is otherwise involved in the subject matter of the dispute or is related to any party to such proceedings and in such a case, the Nyayadhikari shall refer the matter to the District Court or the Court of Session, as the case may be, for transferring it to any other Nyayadhikari.

Nyayadhikari not to preside over proceedings in which he is interested.

9. (1) The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings at any place which he considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen:

Nyayadhikari to hold mobile courts and conduct proceedings in villages.

Provided that where the Gram Nyayalaya decides to hold mobile court outside its headquarters, it shall give wide publicity as to the date and place where it proposes to hold mobile court.

(2) The State Government shall extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court by the Nyayadhikari while conducting trial or proceedings outside its headquarters.

10. Every Gram Nyayalaya established under this Act shall use a seal of the court in such form and dimensions as may be prescribed by the High Court with the approval of the State Government.

Seal of Gram Nyayalaya.

### CHAPTER III

#### JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

2 of 1974.  
5 of 1908.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or the Code of Civil Procedure, 1908 or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act.

Jurisdiction of Gram Nyayalaya.

2 of 1974.

12. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall—

Criminal jurisdiction.

(a) try all offences specified in Part I of the First Schedule; and

(b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

Civil jurisdiction.

13. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, and subject to sub-section (2), the Gram Nyayalaya shall have jurisdiction to— 5 of 1908.

(a) try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule;

(b) try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of section 14 and by the State Government under sub-section (3) of the said section.

(2) The pecuniary limits of the Gram Nyayalaya shall be such as may be specified by the High Court, in consultation with the State Government, by notification, from time to time.

Power to amend Schedules.

14. (1) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item in Part I or Part II of the First Schedule or Part II of the Second Schedule, as the case may be, and it shall be deemed to have been amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

(3) If the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(4) Every notification issued under sub-section (3) shall be laid before the State Legislature.

Limitation.

15. (1) The provisions of the Limitation Act, 1963 shall be applicable to the suits triable by the Gram Nyayalaya. 36 of 1963.

(2) The provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable in respect of the offences triable by the Gram Nyayalaya. 2 of 1974.

Transfer of pending proceedings.

16. (1) The District Court or the Court of Session, as the case may be, with effect from such date as may be notified by the High Court, may transfer all the civil or criminal cases, pending before the courts subordinate to it, to the Gram Nyayalaya competent to try or dispose of such cases.

(2) The Gram Nyayalaya may, in its discretion, either retry the cases or proceed from the stage at which it was transferred to it.

Duties of ministerial officers.

17. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist a Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.

(2) The salaries and allowances payable to, and other conditions of service of, the officers and other employees of the Gram Nyayalaya shall be such as may be prescribed by the State Government.

(3) The officers and other employees of a Gram Nyayalaya shall perform such duties as may, from time to time, be assigned to them by the Nyayadhikari.

## CHAPTER IV

## PROCEDURE IN CRIMINAL CASES

- 2 of 1974. 18. The provisions of this Act shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the first class. Overriding effect of Act in criminal trial.
- 2 of 1974. 19. (1) Notwithstanding anything contained in sub-section (1) of section 260 or sub-section (2) of section 262 of the Code of Criminal Procedure, 1973, the Gram Nyayalaya shall try the offences in a summary way in accordance with the procedure specified in Chapter XXI of the said Code and the provisions of sub-section (1) of section 262 and sections 263 to 265 of the said Code, shall, so far as may be, apply to such trial. Gram Nyayalaya to follow summary trial procedure.
- 2 of 1974. (2) When, in the course of a summary trial, it appears to the Nyayadhikari that the nature of the case is such that it is undesirable to try it summarily, the Nyayadhikari shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided under the Code of Criminal Procedure, 1973.
- 2 of 1974. 20. A person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the Gram Nyayalaya shall dispose of the case in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973. Plea bargaining before Gram Nyayalaya.
- 2 of 1974. 21. (1) For the purpose of conducting criminal cases in the Gram Nyayalaya on behalf of the Government, the provisions of section 25 of the Code of Criminal Procedure, 1973 shall apply. Conduct of cases in Gram Nyayalaya and legal aid to parties.
- (2) Notwithstanding anything contained in sub-section (1), in a criminal proceeding before the Gram Nyayalaya, the complainant may engage an advocate of his choice at his expense to present the case of prosecution with the leave of the Gram Nyayalaya.
- 39 of 1987. (3) The State Legal Services Authority, constituted under section 6 of the Legal Services Authorities Act, 1987, shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.
22. (1) The judgment in every trial shall be pronounced by the Nyayadhikari in open court immediately after the termination of the trial or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties. Pronouncement of judgment.
- (2) The Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

## CHAPTER V

## PROCEDURE IN CIVIL CASES

- 5 of 1908. 23. The provisions of this Act shall have effect notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a civil court. Overriding effect of Act in civil proceedings.
24. (1) Notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under this Act shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government. Special procedure in civil disputes.



(2) Where a suit, claim or dispute has been duly instituted, a summons shall be issued by the Gram Nyayalaya, accompanied by a copy of the application made under sub-section (1), to the opposite party to appear and answer the claim by such date as may be specified therein and the same shall be served in such manner as may be prescribed by the High Court.

(3) After the opposite party files his written statement, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates.

(4) On the date fixed for hearing, the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and where the dispute does not require recording of any evidence, pronounce the judgment; and in case where it requires recording of evidence, the Gram Nyayalaya shall proceed further.

(5) The Gram Nyayalaya shall also have the power,—

(a) to dismiss any case for default or to proceed *ex parte*; and

(b) to set aside any such order of dismissal for default or any order passed by it for hearing the case *ex parte*.

(6) In regard to any incidental matter that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as it may deem just and reasonable in the interest of justice.

(7) The proceedings shall, as far as practicable, be consistent with the interests of justice and the hearing shall be continued on a day-to-day basis until its conclusion, unless the Gram Nyayalaya finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded in writing.

(8) The Gram Nyayalaya shall dispose of the application made under sub-section (1) within a period of six months from the date of its institution.

(9) The judgment in every suit, claim or dispute shall be pronounced in open court by the Gram Nyayalaya immediately after conclusion of hearing or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(10) The judgment shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

(11) A copy of the judgment shall be delivered free of cost to both the parties within three days from the date of pronouncement of the judgment.

Execution of  
decrees and  
orders of  
Gram  
Nyayalaya.

25. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of the civil court and for this purpose, the Gram Nyayalaya shall have all the powers of a civil court. 5 of 1908.

(2) The Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 and it shall be guided by the principles of natural justice. 5 of 1908.

(3) A decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

Duty of Gram  
Nyayalaya to  
make efforts  
for concilia-  
tion and  
settlement of  
civil disputes.

26. (1) In every suit or proceeding, endeavour shall be made by the Gram Nyayalaya in the first instance, where it is possible to do so, consistent with the nature and circumstances of the case, to assist, persuade and conciliate the parties in arriving at a settlement in respect of the subject matter of the suit, claim or dispute and for this purpose, a Gram Nyayalaya shall follow such procedure as may be prescribed by the High Court.

(2) Where in any suit or proceeding, it appears to the Gram Nyayalaya at any stage that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceeding for such period as it thinks fit to enable them to make attempts to effect such a settlement.

(3) Where any proceeding is adjourned under sub-section (2), the Gram Nyayalaya may, in its discretion, refer the matter to one or more Conciliators for effecting a settlement between the parties.

(4) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Gram Nyayalaya to adjourn the proceeding.

27. (1) For the purposes of section 26, the District Court shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.

Appointment of Conciliators.

(2) The sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators shall be such as may be prescribed by the State Government.

28. The District Court having jurisdiction may, on an application made by any party or when there is considerable pendency of cases in one Gram Nyayalaya or whenever it considers necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within its jurisdiction.

Transfer of civil disputes.

#### CHAPTER VI

##### PROCEDURE GENERALLY

29. The proceedings before the Gram Nyayalaya and its judgment shall, as far as practicable, be in one of the official languages of the State other than the English language.

Proceedings to be in the official language of the State.

30. A Gram Nyayalaya may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

Application of Indian Evidence Act, 1872.

1 of 1872.

31. In suits or proceedings before a Gram Nyayalaya, it shall not be necessary to record the evidence of witnesses at length, but the Nyayadhikari, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and the Nyayadhikari and it shall form part of the record.

Record of oral evidence.

32. (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Gram Nyayalaya.

Evidence of formal character on affidavit.

(2) The Gram Nyayalaya may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

#### CHAPTER VII

##### APPEALS

2 of 1974.

33. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

Appeal in criminal cases.

(2) No appeal shall lie where—

(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya:

Provided that the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(5) An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

(6) The Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(7) The decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

Appeal in civil cases.

34. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, and subject to sub-section (2), an appeal shall lie from every judgment or order, not being an interlocutory order, of a Gram Nyayalaya to the District Court. 5 of 1908.

(2) No appeal shall lie from any judgment or order passed by the Gram Nyayalaya—

(a) with the consent of the parties;

(b) where the amount or value of the subject matter of a suit, claim or dispute does not exceed rupees one thousand;

(c) except on a question of law, where the amount or value of the subject matter of such suit, claim or dispute does not exceed rupees five thousand.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Gram Nyayalaya:

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) An appeal preferred under sub-section (1) shall be heard and disposed of by the District Court within six months from the date of filing of the appeal.

(5) The District Court may, pending disposal of the appeal, stay execution of the judgment or order appealed against.

(6) The decision of the District Court under sub-section (4) shall be final and no appeal or revision shall lie from the decision of the District Court:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

#### CHAPTER VIII

##### MISCELLANEOUS

Assistance of police to Gram Nyayalayas.

35. (1) Every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority.

(2) Whenever the Gram Nyayalaya, in the discharge of its functions, directs a revenue officer or police officer or Government servant to provide assistance to the Gram Nyayalaya, he shall be bound to provide such assistance.

Nyayadhikaris and employees, etc., to be public servants.

36. The Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

37. The High Court may authorise any judicial officer superior in rank to the Nyayadhikari to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may prescribe and issue such instructions, as he considers necessary and submit a report to the High Court.

Inspection of  
Gram Nyaya-  
layas.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to  
remove  
difficulties.

Provided that no order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

39. (1) The High Court may, by notification, make rules for carrying out the provisions of this Act.

Power of High  
Court to make  
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and dimensions of the seal of the Gram Nyayalaya under section 10;

(b) the form, the manner and the fee for institution of suit, claim or proceeding under sub-section (1) of section 24;

(c) manner of service on opposite party under sub-section (2) of section 24;

(d) procedure for conciliation under sub-section (1) of section 26;

(e) qualifications and experience of Conciliators under sub-section (1) of section 27;

(f) the period for inspection of Gram Nyayalayas under section 37.

(3) Every notification issued by the High Court shall be published in the Official Gazette.

40. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

Power of  
State  
Government  
to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Gram Nyayalayas under sub-section (2) of section 17;

(b) the sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators under sub-section (2) of section 27.

(3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.



## THE FIRST SCHEDULE

(See sections 12 and 14)

## PART I

## OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860), ETC.

- (i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;
- (ii) theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;
- (iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;
- (iv) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;
- (v) offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);
- (vi) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under section 506 of the Indian Penal Code (45 of 1860);
- (vii) abetment of any of the foregoing offences;
- (viii) an attempt to commit any of the foregoing offences, when such attempt is an offence.

## PART II

## OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS

- (i) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871);
- (ii) the Payment of Wages Act, 1936 (4 of 1936);
- (iii) the Minimum Wages Act, 1948 (11 of 1948);
- (iv) the Protection of Civil Rights Act, 1955 (22 of 1955);
- (v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);
- (vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
- (vii) the Equal Remuneration Act, 1976 (25 of 1976);
- (viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

## PART III

## OFFENCES AND RELIEF UNDER THE STATE ACTS

(To be notified by the State Government)

## THE SECOND SCHEDULE

(See sections 13 and 14)

## PART I

## SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NYAYALAYAS

## (i) Civil Disputes:

- (a) right to purchase of property;
- (b) use of common pasture;
- (c) regulation and timing of taking water from irrigation channel.

## (ii) Property Disputes:

- (a) village and farm houses (Possession);
- (b) water channels;
- (c) right to draw water from a well or tube well.

## (iii) Other Disputes:

- (a) claims under the Payment of Wages Act, 1936 (4 of 1936);
- (b) claims under the Minimum Wages Act, 1948 (11 of 1948); ;
- (c) money suits either arising from trade transaction or money lending;
- (d) disputes arising out of the partnership in cultivation of land;
- (e) disputes as to the use of forest produce by inhabitants of Gram Panchayats.

## PART II

CLAIMS AND DISPUTES UNDER THE CENTRAL ACTS NOTIFIED UNDER SUB-SECTION (1) OF SECTION 14

BY THE CENTRAL GOVERNMENT

(To be notified by the Central Government)

## PART III

CLAIMS AND DISPUTES UNDER THE STATE ACTS NOTIFIED UNDER SUB-SECTION (3) OF SECTION 14 BY

THE STATE GOVERNMENT

(To be notified by the State Government)

Sd/-

T. K. Viswanathan  
Secretary to the Government of  
India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS  
Secretary to Government



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. L] WEDNESDAY, JULY 29, 2009/SRAVANA 7, 1931

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No. : RPB/21-09/Act-5-09/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department

New Delhi, the 9<sup>th</sup> January, 2009/Pausa 19, 1930 (Sake)

The following Act of Parliament received the assent of the President on the 7<sup>th</sup> January, 2009 is hereby published for general information :-

#### THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2008.

(Act No. 5 of 2009)

AN ACT

[7<sup>th</sup> January, 2009]*further to amend the Code of Criminal Procedure, 1973.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

2 of 1974.

2. In section 2 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after clause (w), the following clause shall be inserted, namely :-

Amendment of section 2.

'(wa) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir;'

3. In section 24 of the Principal Act, in sub-section (8), the following proviso shall be inserted, namely :-

Amendment of section 24.

"Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section."

Amendment  
of section 26.

4. In section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely:—

"Provided that any offence under section 376 and sections 376A to 376D of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman." 45 of 1860.

Amendment  
of section 41.

5. In section 41 of the principal Act,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing.

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;"

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2). Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate."

Insertion of  
new sections  
41A, 41B, 41C  
and 41D.

6. After section 41 of the principal Act, the following new sections shall be inserted, namely:—



"41A. (1) The police officer may, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

Notice of appearance before police officer.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officers is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent Court.

41B. Every police officer while making an arrest shall—

Procedure of arrest and duties of officer making arrest.

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

41C. (1) The State Government shall establish a police control room—

Control room at districts.

(a) in every district; and

(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charged and maintain a database for the information of the general public.

41D. When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation."

Right of arrested person to meet an advocate of his choice during interrogation.

7. In section 46 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment of section 46.

"Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest."

Substitution  
of new  
section for  
section 54.

8. For section 54 of the principal Act, the following section shall be substituted, namely:—

Examination  
of arrested  
person by  
medical  
officer.

“54. (1) When any person is arrested, he shall be examined by a medical officer in the service of Central or State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:

Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.”.

Insertion of  
new section  
55A.

9. After section 55 of the principal Act, the following section shall be inserted, namely:—

Health and  
safety of  
arrested  
person.

“55A. It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.”.

Insertion of  
new section  
60A.

10. After section 60 of the principal Act, the following section shall be inserted, namely:—

Arrest to be  
made strictly  
according to  
the Code.

“60A. No arrest shall be made except in accordance with the provisions of this Code or any other law for the time being in force providing for arrest.”.

Amendment  
of section  
157.

11. In section 157 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.”.

Amendment  
of section  
161.

12. In section 161 of the principal Act, in sub-section (3), the following provisos shall be inserted, namely:—

“Provided that statement made under this sub-section may also be recorded by audio-video electronic means.”.

Amendment  
of section  
164.

13. In section 164 of the principal Act, in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—

“Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.”.

Amendment  
of section  
167.

14. In section 167 of the principal Act, in sub-section (2),—

(a) in the proviso,—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) no Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;”;

(ii) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

“*Explanation II*.— If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.”;

(b) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.”.

15. In section 172 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

Amendment  
of section  
172.

“(1A) The statements of witnesses recorded during the course of investigation under section 161 shall be inserted in the case diary.

“(1B) The diary referred to in sub-section (1) shall be a volume and duly paginated.”.

16. In section 173 of the principal Act,—

Amendment  
of section  
173.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.”;

(b) in sub-section (2), after clause (g), the following clause shall be inserted, namely:—

“(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376B, 376C or 376D of the Indian Penal Code.”.

45 of 1860.

17. After section 195 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
195A.

“195A. A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code.”.

45 of 1860.

Procedure for  
witnesses in  
case of  
threatening,  
etc.

18. In section 198 of the principal Act, in sub-section (d), for the words “fifteen years of age”, the words “eighteen years of age” shall be substituted.

Amendment  
of section  
198.

19. In section 242 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment  
of section  
242.

"Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police."

Amendment  
of section  
275.

20. In section 275 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence."

Amendment  
of section  
309.

21. In section 309 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.";

45 of 1860.

(b) in sub-section (2), after the third proviso and before *Explanation 1*, the following proviso shall be inserted, namely:—

45 of 1860.

"Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if it thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be."

Amendment  
of section  
313.

22. In section 313 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section."

Amendment  
of section  
320.

23. In section 320 of the principal Act,—

(i) in sub-section (1), for the TABLE, the following TABLE shall be substituted, namely:—

TABLE		
Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Voluntarily causing hurt.	323	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	334	Ditto.



1	2	3
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Wrongfully confining a person for three days or more	343	The person confined.
Wrongfully confining a person for ten days or more.	344	Ditto.
Wrongfully confining a person in secret.	346	Ditto.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Theft.	379	The owner of the property stolen.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	407	The owner of the property in respect of which the breach of trust has been committed.
Dishonestly receiving stolen property knowing it to be stolen.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	414	Ditto.
Cheating.	417	The person cheated.
Cheating by personation.	419	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.

1	2	3
Mischief by killing or maiming animal.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc.	429	The owner of the cattle or animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	430	The person to whom the loss or damage is caused.
Criminal trespass.	447	The person in possession of the property trespassed upon.
House-trespass.	448	Ditto.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	Ditto.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Criminal breach of contract of service.	491	The person with whom the offender has contracted.
Adultery.	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	The husband of the woman and the woman.
Defamation, except such cases as are specified against section 500 of the Indian Penal Code (45 of 1860) in column 1 of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory	502	Ditto.

1	2	3
matter, knowing it to contain such matter.		
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation.	506	The person intimidated.
Inducing person to believe himself an object of divine displeasure.	508	The person induced.”;

(ii) in sub-section (2), for the TABLE the following TABLE shall be substituted, namely:—

“TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Causing miscarriage.	312	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	325	The person to whom hurt is caused.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	381	The owner of the property stolen.
Criminal breach of trust	406	The owner of property in respect of which breach of trust has been committed.
Criminal breach of trust by a clerk or servant.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.

1	2	3
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.”;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under sections 34 or 149 of the Indian Penal Code may be compounded in like manner.”.

45 of 1860.

Amendment  
of section  
327.

24. In section 327 of the principle Act,—

(a) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that *in camera* trial shall be conducted as far as practicable by a woman Judge or Magistrate.”;

(b) in sub-section (3), the following proviso shall be inserted, namely:—

“Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.”.

Amendment  
of section  
328.

25. In section 328 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If the civil surgeon finds the accused to be of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from unsoundness of mind or mental retardation:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.”;

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) If such Magistrate is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without



questioning the accused, if he finds that no *prima facie* case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under section 330.

(4) If such Magistrate is informed that the person referred to in sub-section (1A) is a person with mental retardation, the Magistrate shall further determine whether the mental retardation renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under section 330."

26. In section 329 of the principal Act,—

Amendment  
of section  
329.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be, shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.";

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) If such Magistrate or Court is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no *prima facie* case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate or Court finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a *prima facie* case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 330."

27. For section 330 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section  
330.

Release of  
person of  
unsound mind  
pending  
investigation  
or trial.

"330. (1) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, order release of such person on bail:

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Health Act, 1987.

(3) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered:

14 of 1987.

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under section 328 or section 329, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person;

(b) if the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training."

Insertion of  
new section  
357A.

28. After section 357 of the principal Act, the following section shall be inserted, namely:—

Victim  
compensation  
scheme.

"357A. (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) the State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."

29. In section 372 of the Principal Act, the following proviso shall be inserted, namely :- **Amendment of section 372.**

"Provided that the victim shall have a right to prefer an appeal against nay order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court".

30. In section 416 of the Principal Act, the words "order the execution of the sentence to be postponed, and may, if it thinks fit" shall be omitted. **Amendment of section 416.**

31. After section 437 of the principal Act, the following section shall be inserted, namely :- **Insertion of new section 437 A.**

"437A. (1) Before conclusion of the trial and before disposal of the appeal, the court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bail bonds shall be in force for six months. **Bail to require accused to appear before next appellate court.**

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 446 shall apply."

32. In the Second Schedule to the principal Act, in Form No. 45, after the figures "437," the figures and letter "437A" shall be inserted. **Amendment of Form 45.**

Sd/-

**T. K. Viswanathan**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT  
Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No. : RPB/22-09/Act-6-09/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department  
New Delhi, the 9<sup>th</sup> January, 2009/Pausa 19, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 7<sup>th</sup> January, 2009, is hereby published for general information :-

### THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

(Act No. 6 of 2009)

AN ACT

[7<sup>th</sup> January, 2009]

*to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto*

BE it enacted by Parliament in the Fifty-ninth year of the Republic of India as follows :-

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Limited Liability Partnership Act, 2008.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint;

Short title,  
extent and  
commencement

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.



## Definitions.

2. (1) In this Act, unless the context otherwise requires,—

- (a) “address”, in relation to a partner of a limited liability partnership, means—  
 (i) if an individual, his usual residential address; and  
 (ii) if a body corporate, the address of its registered office;
- (b) “advocate” means an advocate as defined in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961; 25 of 1961.
- (c) “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under sub-section (1) of section 10FR of the Companies Act, 1956; 1 of 1956.
- (d) “body corporate” means a company as defined in section 3 of the Companies Act, 1956 and includes — 1 of 1956.  
 (i) a limited liability partnership registered under this Act;  
 (ii) a limited liability partnership incorporated outside India; and  
 (iii) a company incorporated outside India,
- but does not include—  
 (i) a corporation sole;  
 (ii) a co-operative society registered under any law for the time being in force; and  
 (iii) any other body corporate (not being a company as defined in section 3 of the Companies Act, 1956 or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf; 1 of 1956.
- (e) “business” includes every trade, profession, service and occupation;
- (f) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 38 of 1949.
- (g) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 56 of 1980.
- (h) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 23 of 1959.
- (i) “Court”, with respect to any offence under this Act, means the Court having jurisdiction as per the provisions of section 77;
- (j) “designated partner” means any partner designated as such pursuant to section 7;
- (k) “entity” means any body corporate and includes, for the purposes of sections 18, 46, 47, 48, 49, 50, 52 and 53, a firm setup under the Indian Partnership Act, 1932; 9 of 1932.
- (l) “financial year”, in relation to a limited liability partnership, means the period from the 1st day of April of a year to the 31st day of March of the following year:  
 Provided that in the case of a limited liability partnership incorporated after the 30th day of September of a year, the financial year may end on the 31st day of March of the year next following that year;
- (m) “foreign limited liability partnership” means a limited liability partnership formed, incorporated or registered outside India which establishes a place of business within India;

(n) "limited liability partnership" means a partnership formed and registered under this Act;

(o) "limited liability partnership agreement" means any written agreement between the partners of the limited liability partnership or between the limited liability partnership and its partners which determines the mutual rights and duties of the partners and their rights and duties in relation to that limited liability partnership;

(p) "name", in relation to a partner of a limited liability partnership, means—

(i) if an individual, his forename, middle name and surname; and

(ii) if a body corporate, its registered name;

(q) "partner", in relation to a limited liability partnership, means any person who becomes a partner in the limited liability partnership in accordance with the limited liability partnership agreement;

(r) "prescribed" means prescribed by rules made under this Act;

1 of 1956.

(s) "Registrar" means a Registrar, or an Additional, a Joint, a Deputy or an Assistant Registrar, having the duty of registering companies under the Companies Act, 1956;

(t) "Schedule" means a Schedule to this Act;

1 of 1956.

(u) "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 10FB of the Companies Act, 1956.

1 of 1956.

(2) Words and expressions used and not defined in this Act but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

### NATURE OF LIMITED LIABILITY PARTNERSHIP

3. (1) A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.

Limited liability partnership to be body corporate.

(2) A limited liability partnership shall have perpetual succession.

(3) Any change in the partners of a limited liability partnership shall not affect the existence, rights or liabilities of the limited liability partnership.

9 of 1932.

4. Save as otherwise provided, the provisions of the Indian Partnership Act, 1932 shall not apply to a limited liability partnership.

Non-applicability of the Indian Partnership Act, 1932.

5. Any individual or body corporate may be a partner in a limited liability partnership:

Partners.

Provided that an individual shall not be capable of becoming a partner of a limited liability partnership, if—

(a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;

(b) he is an undischarged insolvent; or

(c) he has applied to be adjudicated as an insolvent and his application is pending.

6. (1) Every limited liability partnership shall have at least two partners.

Minimum number of partners.

(2) If at any time the number of partners of a limited liability partnership is reduced below two and the limited liability partnership carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the limited liability partnership incurred during that period.



Designated  
partners.

7. (1) Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India:

Provided that in case of a limited liability partnership in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such limited liability partnership or nominees of such bodies corporate shall act as designated partners.

*Explanation.*— For the purposes of this section, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred and eighty-two days during the immediately preceding one year.

(2) Subject to the provisions of sub-section (1),—

(i) if the incorporation document—

(a) specifies who are to be designated partners, such persons shall be designated partners on incorporation; or

(b) states that each of the partners from time to time of limited liability partnership is to be designated partner, every such partner shall be a designated partner;

(ii) any partner may become a designated partner by and in accordance with the limited liability partnership agreement and a partner may cease to be a designated partner in accordance with limited liability partnership agreement.

(3) An individual shall not become a designated partner in any limited liability partnership unless he has given his prior consent to act as such to the limited liability partnership in such form and manner as may be prescribed.

(4) Every limited liability partnership shall file with the registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within thirty days of his appointment.

(5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.

(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 266A to 266G (both inclusive) of the Companies Act, 1956 shall apply *mutatis* 1 of 1956.

Liabilities of  
designated  
partners.

8. Unless expressly provided otherwise in this Act, a designated partner shall be—

(a) responsible for the doing of all acts, matters and things as are required to be done by the limited liability partnership in respect of compliance of the provisions of this Act including filing of any document, return, statement and the like report pursuant to the provisions of this Act and as may be specified in the limited liability partnership agreement; and

(b) liable to all penalties imposed on the limited liability partnership for any contravention of those provisions.

Changes in  
designated  
partners.

9. A limited liability partnership may appoint a designated partner within thirty days of a vacancy arising for any reason and provisions of sub-section (4) and sub-section (5) of section 7 shall apply in respect of such new designated partner:

Provided that if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.

Punishment for  
contravention  
of sections 7, 8  
and 9.

10. (1) If the limited liability partnership contravenes the provisions of sub-section (1) of section 7, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

(2) If the limited liability partnership contravenes the provisions of sub-section (4) and sub-section (5) of section 7, section 8 or section 9, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

## CHAPTER III

## INCORPORATION OF LIMITED LIABILITY PARTNERSHIP AND MATTERS INCIDENTAL THERETO

## 11. (1) For a limited liability partnership to be incorporated,—

Incorporation document.

(a) two or more persons associated for carrying on a lawful business with a view to profit shall subscribe their names to an incorporation document;

(b) the incorporation document shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the limited liability partnership is to be situated; and

(c) there shall be filed along with the incorporation document, a statement in the prescribed form, made by either an advocate, or a Company Secretary or a Chartered Accountant or a Cost Accountant, who is engaged in the formation of the limited liability partnership and by any one who subscribed his name to the incorporation document, that all the requirements of this Act and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto.

## (2) The incorporation document shall—

(a) be in a form as may be prescribed;

(b) state the name of the limited liability partnership;

(c) state the proposed business of the limited liability partnership;

(d) state the address of the registered office of the limited liability partnership;

(e) state the name and address of each of the persons who are to be partners of the limited liability partnership on incorporation;

(f) state the name and address of the persons who are to be designated partners of the limited liability partnership on incorporation;

(g) contain such other information concerning the proposed limited liability partnership as may be prescribed.

## (3) If a person makes a statement under clause (c) of sub-section (1) which he—

(a) knows to be false; or

(b) does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

12. (1) When the requirements imposed by clauses (b) and (c) of sub-section (1) of section 11 have been complied with, the Registrar shall retain the incorporation document and, unless the requirement imposed by clause (a) of that sub-section has not been complied with, he shall, within a period of fourteen days—

Incorporation by registration.

(a) register the incorporation document; and

(b) give a certificate that the limited liability partnership is incorporated by the name specified therein.

(2) The Registrar may accept the statement delivered under clause (c) of sub-section (1) of section 11 as sufficient evidence that the requirement imposed by clause (a) of that sub-section has been complied with.



(3) The certificate issued under clause (b) of sub-section (1) shall be signed by the Registrar and authenticated by his official seal.

(4) The certificate shall be conclusive evidence that the limited liability partnership is incorporated by the name specified therein.

Registered  
office of  
limited liability  
partnership  
and change  
therein.

13. (1) Every limited liability partnership shall have a registered office to which all communications and notices may be addressed and where they shall be received.

(2) A document may be served on a limited liability partnership or a partner or designated partner thereof by sending it by post under a certificate of posting or by registered post or by any other manner, as may be prescribed, at the registered office and any other address specifically declared by the limited liability partnership for the purpose in such form and manner as may be prescribed.

(3) A limited liability partnership may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.

(4) If the limited liability partnership contravenes any provisions of this section, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Effect of  
registration.

14. On registration, a limited liability partnership shall, by its name, be capable of —

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;

(c) having a common seal, if it decides to have one; and

(d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

Name.

15. (1) Every limited liability partnership shall have either the words "limited liability partnership" or the acronym "LLP" as the last words of its name.

(2) No limited liability partnership shall be registered by a name which, in the opinion of the Central Government is —

(a) undesirable; or

(b) identical or too nearly resembles to that of any other partnership firm or limited liability partnership or body corporate or a registered trade mark, or a trade mark which is the subject matter of an application for registration, of any other person under the Trade Marks Act, 1999.

47 of 1999.

Reservation of  
name.

16. (1) A person may apply in such form and manner and accompanied by such fee as may be prescribed to the Registrar for the reservation of a name set out in the application as —

(a) the name of a proposed limited liability partnership; or

(b) the name to which a limited liability partnership proposes to change its name.

(2) Upon receipt of an application under sub-section (1) and on payment of the prescribed fee, the Registrar may, if he is satisfied, subject to the rules prescribed by the Central Government in the matter, that the name to be reserved is not one which may be rejected on any ground referred to in sub-section (2) of section 15, reserve the name for a period of three months from the date of intimation by the Registrar.

Change of name  
of limited  
liability partner-  
ship.

17. (1) Notwithstanding anything contained in sections 15 and 16, where the Central Government is satisfied that a limited liability partnership has been registered (whether through inadvertence or otherwise and whether originally or by a change of name) under a name which —

(a) is a name referred to in sub-section (2) of section 15; or



(b) is identical with or too nearly resembles the name of any other limited liability partnership or body corporate or other name as to be likely to be mistaken for it,

the Central Government may direct such limited liability partnership to change its name, and the limited liability partnership shall comply with the said direction within three months after the date of the direction or such longer period as the Central Government may allow.

(2) Any limited liability partnership which fails to comply with a direction given under sub-section (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees and the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

18. (1) Any entity which already has a name similar to the name of a limited liability partnership which has been incorporated subsequently, may apply, in such manner as may be prescribed, to the Registrar to give a direction to any limited liability partnership, on a ground referred to in section 17 to change its name.

Application for direction to change name in certain circumstances.

(2) The Registrar shall not consider any application under sub-section (1) to give a direction to a limited liability partnership on the ground referred to in clause (b) of sub-section (1) of section 17 unless the Registrar receives the application within twenty-four months from the date of registration of the limited liability partnership under that name.

19. Any limited liability partnership may change its name registered with the Registrar by filing with him a notice of such change in such form and manner and on payment of such fees as may be prescribed.

Change of registered name.

20. If any person or persons carry on business under any name or title of which the words "Limited Liability Partnership" or "LLP" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated as limited liability partnership, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Penalty for improper use of words "limited liability partnership" or "LLP".

21. (1) Every limited liability partnership shall ensure that its invoices, official correspondence and publications bear the following, namely:—

Publication of name and limited liability.

(a) the name, address of its registered office and registration number of the limited liability partnership; and

(b) a statement that it is registered with limited liability.

(2) Any limited liability partnership which contravenes the provisions of sub-section (1) shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

#### CHAPTER IV

##### PARTNERS AND THEIR RELATIONS

22. On the incorporation of a limited liability partnership, the persons who subscribed their names to the incorporation document shall be its partners and any other person may become a partner of the limited liability partnership by and in accordance with the limited liability partnership agreement.

Eligibility to be partners.

23. (1) Save as otherwise provided by this Act, the mutual rights and duties of the partners of a limited liability partnership, and the mutual rights and duties of a limited liability partnership and its partners, shall be governed by the limited liability partnership agreement between the partners, or between the limited liability partnership and its partners.

Relationship of partners.

(2) The limited liability partnership agreement and any changes, if any, made therein shall be filed with the Registrar in such form, manner and accompanied by such fees as may be prescribed.



(3) An agreement in writing made before the incorporation of a limited liability partnership between the persons who subscribe their names to the incorporation document may impose obligations on the limited liability partnership, provided such agreement is ratified by all the partners after the incorporation of the limited liability partnership.

(4) In the absence of agreement as to any matter, the mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and the partners shall be determined by the provisions relating to that matter as are set-out in the First Schedule.

Cessation of  
partnership  
interest.

24. (1) A person may cease to be a partner of a limited liability partnership in accordance with an agreement with the other partners or, in the absence of agreement with the other partners as to cessation of being a partner, by giving a notice in writing of not less than thirty days to the other partners of his intention to resign as partner.

(2) A person shall cease to be a partner of a limited liability partnership—

(a) on his death or dissolution of the limited liability partnership; or

(b) if he is declared to be of unsound mind by a competent court; or

(c) if he has applied to be adjudged as an insolvent or declared as an insolvent.

(3) Where a person has ceased to be a partner of a limited liability partnership (hereinafter referred to as "former partner"), the former partner is to be regarded (in relation to any person dealing with the limited liability partnership) as still being a partner of the limited liability partnership unless—

(a) the person has notice that the former partner has ceased to be a partner of the limited liability partnership; or

(b) notice that the former partner has ceased to be a partner of the limited liability partnership has been delivered to the Registrar.

(4) The cessation of a partner from the limited liability partnership does not by itself discharge the partner from any obligation to the limited liability partnership or to the other partners or to any other person which he incurred while being a partner.

(5) Where a partner of a limited liability partnership ceases to be a partner, unless otherwise provided in the limited liability partnership agreement, the former partner or a person entitled to his share in consequence of the death or insolvency of the former partner, shall be entitled to receive from the limited liability partnership —

(a) an amount equal to the capital contribution of the former partner actually made to the limited liability partnership; and

(b) his right to share in the accumulated profits of the limited liability partnership, after the deduction of accumulated losses of the limited liability partnership, determined as at the date the former partner ceased to be a partner.

(6) A former partner or a person entitled to his share in consequence of the death or insolvency of the former partner shall not have any right to interfere in the management of the limited liability partnership.

Registration of  
changes in  
partners.

25. (1) Every partner shall inform the limited liability partnership of any change in his name or address within a period of fifteen days of such change.

(2) A limited liability partnership shall—

(a) where a person becomes or ceases to be a partner, file a notice with the Registrar within thirty days from the date he becomes or ceases to be a partner; and

(b) where there is any change in the name or address of a partner, file a notice with the Registrar within thirty days of such change.

(3) A notice filed with the Registrar under sub-section (2)—

(a) shall be in such form and accompanied by such fees as may be prescribed;

(b) shall be signed by the designated partner of the limited liability partnership and authenticated in a manner as may be prescribed; and

(c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.

(4) If the limited liability partnership contravenes the provisions of sub-section (2), the limited liability partnership and every designated partner of the limited liability partnership shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(5) If any partner contravenes the provisions of sub-section (1), such partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(6) Any person who ceases to be a partner of a limited liability partnership may himself file with the Registrar the notice referred to in sub-section (3) if he has reasonable cause to believe that the limited liability partnership may not file the notice with the Registrar and in case of any such notice filed by a partner, the Registrar shall obtain a confirmation to this effect from the limited liability partnership unless the limited liability partnership has also filed such notice:

Provided that where no confirmation is given by the limited liability partnership within fifteen days, the registrar shall register the notice made by a person ceasing to be a partner under this section.

## CHAPTER V

### EXTENT AND LIMITATION OF LIABILITY OF LIMITED LIABILITY PARTNERSHIP AND PARTNERS

26. Every partner of a limited liability partnership is, for the purpose of the business of the limited liability partnership, the agent of the limited liability partnership, but not of other partners.

Partner as agent.

27. (1) A limited liability partnership is not bound by anything done by a partner in dealing with a person if—

Extent of liability of limited liability partnership.

(a) the partner in fact has no authority to act for the limited liability partnership in doing a particular act; and

(b) the person knows that he has no authority or does not know or believe him to be a partner of the limited liability partnership.

(2) The limited liability partnership is liable if a partner of a limited liability partnership is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the limited liability partnership or with its authority.

(3) An obligation of the limited liability partnership whether arising in contract or otherwise, shall be solely the obligation of the limited liability partnership.

(4) The liabilities of the limited liability partnership shall be met out of the property of the limited liability partnership.

28. (1) A partner is not personally liable, directly or indirectly for an obligation referred to in sub-section (3) of section 27 solely by reason of being a partner of the limited liability partnership.

Extent of liability of partner.

(2) The provisions of sub-section (3) of section 27 and sub-section (1) of this section shall not affect the personal liability of a partner for his own wrongful act or omission, but a



partner shall not be personally liable for the wrongful act or omission of any other partner of the limited liability partnership.

Holding out.

29. (1) Any person, who by words spoken or written or by conduct, represents himself, or knowingly permits himself to be represented to be a partner in a limited liability partnership is liable to any person who has on the faith of any such representation given credit to the limited liability partnership, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit:

Provided that where any credit is received by the limited liability partnership as a result of such representation, the limited liability partnership shall, without prejudice to the liability of the person so representing himself or represented to be a partner, be liable to the extent of credit received by it or any financial benefit derived thereon.

(2) Where after a partner's death the business is continued in the same limited liability partnership name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the limited liability partnership done after his death.

Unlimited liability in case of fraud.

30. (1) In the event of an act carried out by a limited liability partnership, or any of its partners, with intent to defraud creditors of the limited liability partnership or any other person, or for any fraudulent purpose, the liability of the limited liability partnership and partners who acted with intent to defraud creditors or for any fraudulent purpose shall be unlimited for all or any of the debts or other liabilities of the limited liability partnership:

Provided that in case any such act is carried out by a partner, the limited liability partnership is liable to the same extent as the partner unless it is established by the limited liability partnership that such act was without the knowledge or the authority of the limited liability partnership.

(2) Where any business is carried on with such intent or for such purpose as mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

(3) Where a limited liability partnership or any partner or designated partner or employee of such limited liability partnership has conducted the affairs of the limited liability partnership in a fraudulent manner, then without prejudice to any criminal proceedings which may arise under any law for the time being in force, the limited liability partnership and any such partner or designated partner or employee shall be liable to pay compensation to any person who has suffered any loss or damage by reason of such conduct:

Provided that such limited liability partnership shall not be liable if any such partner or designated partner or employee has acted fraudulently without knowledge of the limited liability partnership.

Whistle blowing.

31. (1) The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a limited liability partnership, if it is satisfied that—

(a) such partner or employee of a limited liability partnership has provided useful information during investigation of such limited liability partnership; or

(b) when any information given by any partner or employee (whether or not during investigation) leads to limited liability partnership or any partner or employee of such limited liability partnership being convicted under this Act or any other Act.

(2) No partner or employee of any limited liability partnership may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his limited liability partnership or employment merely because of his providing information or causing information to be provided pursuant to sub-section (1).



## CHAPTER VI

## CONTRIBUTIONS

32. (1) A contribution of a partner may consist of tangible, movable or immovable or intangible property or other benefit to the limited liability partnership, including money, promissory notes, other agreements to contribute cash or property, and contracts for services performed or to be performed.

Form of contribution.

(2) The monetary value of contribution of each partner shall be accounted for and disclosed in the accounts of the limited liability partnership in the manner as may be prescribed.

33. (1) The obligation of a partner to contribute money or other property or other benefit or to perform services for a limited liability partnership shall be as per the limited liability partnership agreement.

Obligation to contribute.

(2) A creditor of a limited liability partnership, which extends credit or otherwise acts in reliance on an obligation described in that agreement, without notice of any compromise between partners, may enforce the original obligation against such partner.

## CHAPTER VII

## FINANCIAL DISCLOSURES

34. (1) The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as may be prescribed.

Maintenance of books of account, other records and audit, etc.

(2) Every limited liability partnership shall, within a period of six months from the end of each financial year, prepare a Statement of Account and Solvency for the said financial year as at the last day of the said financial year in such form as may be prescribed, and such statement shall be signed by the designated partners of the limited liability partnership.

(3) Every limited liability partnership shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub-section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.

(4) The accounts of limited liability partnerships shall be audited in accordance with such rules as may be prescribed:

Provided that the Central Government may, by notification in the Official Gazette, exempt any class or classes of limited liability partnerships from the requirements of this sub-section.

(5) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

35. (1) Every limited liability partnership shall file an annual return duly authenticated with the Registrar within sixty days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.

Annual return.

(2) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(3) If the limited liability partnership contravenes the provisions of this section, the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.



Inspection of documents kept by Registrar.

36. The incorporation document, names of partners and changes, if any, made therein, Statement of Account and Solvency and annual return filed by each limited liability partnership with the Registrar shall be available for inspection by any person in such manner and on payment of such fee as may be prescribed.

Penalty for false statement.

37. If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits any material fact knowing it to be material,

he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five lakh rupees but which shall not be less than one lakh rupees.

Power of Registrar to obtain information.

38. (1) In order to obtain such information as the Registrar may consider necessary for the purposes of carrying out the provisions of this Act, the Registrar may require any person including any present or former partner or designated partner or employee of a limited liability partnership to answer any question or make any declaration or supply any details or particulars in writing to him within a reasonable period.

(2) In case any person referred to in sub-section (1) does not answer such question or make such declaration or supply such details or particulars asked for by the Registrar within a reasonable time or time given by the Registrar or when the Registrar is not satisfied with the reply or declaration or details or particulars provided by such person, the Registrar shall have power to summon that person to appear before him or an inspector or any other public officer whom the Registrar may designate, to answer any such question or make such declaration or supply such details, as the case may be.

(3) Any person who, without lawful excuse, fails to comply with any summons or requisition of the Registrar under this section shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Compounding of offences.

39. The Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.

Destruction of old records.

40. The Registrar may destroy any document filed or registered with him in physical form or in electronic form in accordance with such rules as may be prescribed.

Enforcement of duty to make returns, etc.

41. (1) If any limited liability partnership is in default in complying with—

(a) any provisions of this Act or of any other law which requires the filing in any manner with the Registrar of any return, account or other document or the giving of notice to him of any matter; or

(b) any request of the Registrar to amend or complete and resubmit any document or to submit a fresh document,

and fails to make good the default within fourteen days after the service on the limited liability partnership of a notice requiring it to be done, the Tribunal may, on application by the Registrar, make an order directing that limited liability partnership or its designated partners or its partners to make good the default within such time as specified in the order.

(2) Any such order may provide that all the costs of and incidental to the application shall be borne by that limited liability partnership.

(3) Nothing in this section shall limit the operation of any other provision of this Act or any other law imposing penalties in respect of any default referred to in this section on that limited liability partnership.

## CHAPTER VIII

## ASSIGNMENT AND TRANSFER OF PARTNERSHIP RIGHTS

42. (1) The rights of a partner to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership agreement are transferable either wholly or in part.

Partner's transferable interest.

(2) The transfer of any right by any partner pursuant to sub-section (1) does not by itself cause the disassociation of the partner or a dissolution and winding up of the limited liability partnership.

(3) The transfer of right pursuant to this section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

## CHAPTER IX

## INVESTIGATION

43. (1) The Central Government shall appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report thereon in such manner as it may direct if—

Investigation of the affairs of limited liability partnership.

(a) the Tribunal, either *suo motu*, or on an application received from not less than one-fifth of the total number of partners of limited liability partnership, by order, declares that the affairs of the limited liability partnership ought to be investigated; or

(b) any Court, by order, declares that the affairs of a limited liability partnership ought to be investigated.

(2) The Central Government may appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report on them in such manner as it may direct.

(3) The appointment of inspectors pursuant to sub-section (2) may be made,—

(a) if not less than one-fifth of the total number of partners of the limited liability partnership make an application along with supporting evidence and security amount as may be prescribed; or

(b) if the limited liability partnership makes an application that the affairs of the limited liability partnership ought to be investigated; or

(c) if, in the opinion of the Central Government, there are circumstances suggesting—

(i) that the business of the limited liability partnership is being or has been conducted with an intent to defraud its creditors, partners or any other person, or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive or unfairly prejudicial to some or any of its partners, or that the limited liability partnership was formed for any fraudulent or unlawful purpose; or

(ii) that the affairs of the limited liability partnership are not being conducted in accordance with the provisions of this Act; or

(iii) that, on receipt of a report of the Registrar or any other investigating or regulatory agency, there are sufficient reasons that the affairs of the limited liability partnership ought to be investigated.

44. An application by partners of the limited liability partnership under clause (a) of sub-section (1) of section 43 shall be supported by such evidence as the Tribunal may require for the purpose of showing that the applicants have good reason for requiring the investigation

Application by partners for investigation.



and the Central Government may, before appointing an inspector, require the applicants to give security, of such amount as may be prescribed, for payment of costs of the investigation.

Firm, body corporate or association not to be appointed as inspector.

45. No firm, body corporate or other association shall be appointed as an inspector.

Power of inspectors to carry out investigation into affairs of related entities. etc.

46. (1) If an inspector appointed by the Central Government to investigate the affairs of a limited liability partnership thinks it necessary for the purposes of his investigation to investigate also the affairs of an entity which has been associated in the past or is presently associated with the limited liability partnership or any present or former partner or designated partner of the limited liability partnership, the inspector shall have the power to do so and shall report on the affairs of the other entity or partner or designated partner, so far as he thinks that the results of his investigation thereof are relevant to the investigation of the affairs of the limited liability partnership.

(2) In the case of any entity or partner or designated partner referred to in sub-section (1), the inspector shall not exercise his power of investigating into, and reporting on, its or his affairs without first having obtained the prior approval of the Central Government thereto:

Provided that before according approval under this sub-section, the Central Government shall give the entity or partner or designated partner a reasonable opportunity to show cause why such approval should not be accorded.

Production of documents and evidence.

47. (1) It shall be the duty of the designated partner and partners of the limited liability partnership—

(a) to preserve and to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government, all books and papers of, or relating to, the limited liability partnership or, as the case may be, the other entity, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may, with the previous approval of the Central Government, require any entity other than an entity referred to in sub-section (1) to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf, with the previous approval of that Government, as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector may keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for thirty days and thereafter shall return the same to the limited liability partnership, other entity or individual by whom or on whose behalf the books and papers are produced:

Provided that the inspector may call for the books and papers if they are needed again:

Provided further that if certified copies of the books and papers produced under sub-section (2) are furnished to the inspector, he shall return those books and papers to the entity or person concerned.

(4) An inspector may examine on oath—

(a) any of the persons referred to in sub-section (1);

(b) with the previous approval of the Central Government, any other person in relation to the affairs of the limited liability partnership or any other entity, as the case may be; and



(c) may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(5) If any person fails without reasonable cause or refuses—

(a) to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government any book or paper which it is his duty under sub-section (1) or sub-section (2) to produce; or

(b) to furnish any information which is his duty under sub-section (2) to furnish; or

(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination,

he shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

(6) The notes of any examination under sub-section (4) shall be taken down in writing and signed by the person whose examination was made on oath and a copy of such notes shall be given to the person so examined on oath and thereafter be used as an evidence by the inspector.

48. (1) Where in the course of investigation, the inspector has reasonable ground to believe that the books and papers of, or relating to, the limited liability partnership or other entity or partner or designated partner of such limited liability partnership may be destroyed, mutilated, altered, falsified or secreted, the inspector may make an application to the Judicial Magistrate of the first class, or, as the case may be, the Metropolitan Magistrate, having jurisdiction, for an order for the seizure of such books and papers.

Seizure of documents by inspector.

(2) After considering the application and hearing the inspector, if necessary, the Magistrate may, by order, authorise the inspector —

(a) to enter, with such assistance, as may be required, the place or places where such books and papers are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books and papers which the inspector considers it necessary for the purposes of his investigation.

(3) The inspector shall keep in his custody the books and papers seized under this section for such period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the concerned entity or person from whose custody or power they were seized and inform the Magistrate of such return:

Provided that the books and papers shall not be kept seized for a continuous period of more than six months:

Provided further that the inspector may, before returning such books and papers as aforesaid, place identification marks on them or any part thereof.

(4) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

2 of 1974.

49. (1) The inspectors may, and if so directed by the Central Government, shall make interim reports to that Government, and on the conclusion of the investigation, shall make a final report to the Central Government and any such report shall be written or printed, as the Central Government may direct.

Inspector's report.



## (2) The Central Government—

(a) shall forward a copy of any report (other than an interim report) made by the inspectors to the limited liability partnership at its registered office, and also to any other entity or person dealt with or related to the report; and

(b) may, if it thinks fit, furnish a copy thereof, on request and on payment of the prescribed fee, to any person or entity related to or affected by the report.

## Prosecution.

50. If, from the report under section 49, it appears to the Central Government that any person in relation to the limited liability partnership or in relation to any other entity whose affairs have been investigated, has been guilty of any offence for which he is liable, the Central Government may prosecute such person for the offence; and it shall be the duty of all partners, designated partners and other employees and agents of the limited liability partnership or other entity, as the case may be, to give the Central Government all assistance in connection with the prosecution which they are reasonably able to give.

## Application for winding up of limited liability partnership.

51. If any such limited liability partnership is liable to be wound up under this Act or any other law for the time being in force, and it appears to the Central Government from any such report under section 49 that it is expedient to do so by reason of any such circumstances as are referred to in sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (3) of section 43, the Central Government may, unless the limited liability partnership is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf, a petition for the winding up of the limited liability partnership on the ground that it is just and equitable that it should be wound up.

## Proceedings for recovery of damages or property.

52. If, from any report under section 49, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the limited liability partnership or any entity whose affairs have been investigated,—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such limited liability partnership or such other entity; or

(b) for the recovery of any property of such limited liability partnership or such other entity, which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for that purpose.

## Expenses of investigation.

53. (1) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Act shall be defrayed in the first instance by the Central Government; but the following persons shall, to the extent mentioned below, be liable to reimburse the Central Government in respect of such expenses, namely:—

(a) any person who is convicted on a prosecution, or who is ordered to pay damages or restore any property in proceedings brought by virtue of section 52, may, in the same proceedings, be ordered to pay the said expenses to such extent as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any entity in whose name proceedings are brought as aforesaid shall be liable, to the extent of the amount or value of any sums or property recovered by it as a result of the proceedings; and

(c) unless, as a result of the investigation, a prosecution is instituted in pursuance of section 50,—

(i) any entity, a partner or designated partner or any other person dealt with by the report of the inspector shall be liable to reimburse the Central Government in respect of the whole of the expenses, unless and except in so far as, the Central Government otherwise directs; and



(ii) the applicants for the investigation, where the inspector was appointed in pursuance of the provisions of clause (a) of sub-section (1) of section 43, shall be liable to such extent, if any, as the Central Government may direct.

(2) Any amount for which a limited liability partnership or other entity is liable by virtue of clause (b) of sub-section (1) shall be a first charge on the sums or property mentioned in that clause.

(3) The amount of expenses in respect of which any limited liability partnership, other entity, a partner or designated partner or any other person is liable under sub-clause (i) of clause (c) of sub-section (1) to reimburse the Central Government shall be recoverable as arrears of land revenue.

(4) For the purposes of this section, any costs or expenses incurred by the Central Government or in connection with the proceedings brought by virtue of section 52 shall be treated as expenses of the investigation giving rise to the proceedings.

54. A copy of any report of any inspector or inspectors appointed under the provisions of this Act, authenticated in such manner, if any, as may be prescribed, shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

Inspector's report to be evidence.

## CHAPTER X

### CONVERSION INTO LIMITED LIABILITY PARTNERSHIP

55. A firm may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Second Schedule.

Conversion from firm into limited liability partnership.

56. A private company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Third Schedule.

Conversion from private company into limited liability partnership.

57. An unlisted public company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Fourth Schedule.

Conversion from unlisted public company into limited liability partnership.

58. (1) The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Registration and effect of conversion.

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 or the Companies Act, 1956, as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.

9 of 1932.  
1 of 1956.

(2) Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, as the case may be, the limited liability partnership to which such firm or such company has converted, and the partners of the limited liability partnership shall be bound by the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, applicable to them.



(3) Upon such conversion, on and from the date of certificate of registration, the effects of the conversion shall be such as specified in the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be.

(4) Notwithstanding anything contained in any other law for the time being in force, on and from the date of registration specified in the certificate of registration issued under the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be,—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the firm or the company, as the case may be, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, as the case may be, shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm or the company, as the case may be, shall be deemed to be dissolved and removed from the records of the Registrar of Firms or Registrar of Companies, as the case may be.

## CHAPTER XI

### FOREIGN LIMITED LIABILITY PARTNERSHIPS

Foreign limited liability partnerships.

59. The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies Act, 1956 or such regulatory mechanism with such composition as may be prescribed. 1 of 1956.

## CHAPTER XII

### COMPROMISE, ARRANGEMENT OR RECONSTRUCTION OF LIMITED LIABILITY PARTNERSHIPS

Compromise, or arrangement of limited liability partnerships.

60. (1) Where a compromise or arrangement is proposed—

(a) between a limited liability partnership and its creditors; or

(b) between a limited liability partnership and its partners,

the Tribunal may, on the application of the limited liability partnership or of any creditor or partner of the limited liability partnership, or, in the case of a limited liability partnership which is being wound up, of the liquidator, order a meeting of the creditors or of the partners, as the case may be, to be called, held and conducted in such manner as may be prescribed or as the Tribunal directs.

(2) If a majority representing three-fourths in value of the creditors, or partners, as the case may be, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, by order be binding on all the creditors or all the partners, as the case may be, and also on the limited liability partnership, or in the case of a limited liability partnership which is being wound up, on the liquidator and contributories of the limited liability partnership:

Provided that no order sanctioning any compromise or arrangement shall be made by the Tribunal unless the Tribunal is satisfied that the limited liability partnership or any other person by whom an application has been made under sub-section (1) has disclosed to the Tribunal, by affidavit or otherwise, all material facts relating to the limited liability partnership, including the latest financial position of the limited liability partnership and the pendency of any investigation proceedings in relation to the limited liability partnership.

(3) An order made by the Tribunal under sub-section (2) shall be filed by the limited liability partnership with the Registrar within thirty days after making such an order and shall have effect only after it is so filed.



(4) If default is made in complying with sub-section (3), the limited liability partnership, and every designated partner of the limited liability partnership shall be punishable with fine which may extend to one lakh rupees.

(5) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the limited liability partnership on such terms as the Tribunal thinks fit, until the application is finally disposed of.

61. (1) Where the Tribunal makes an order under section 60 sanctioning a compromise or an arrangement in respect of a limited liability partnership, it—

Power of Tribunal to enforce compromise or arrangement.

(a) shall have power to supervise the carrying out of the compromise or an arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement.

(2) If the Tribunal aforesaid is satisfied that a compromise or an arrangement sanctioned under section 60 cannot be worked satisfactorily with or without modifications, it may, either on its own motion or on the application of any person interested in the affairs of the limited liability partnership, make an order for winding up the limited liability partnership, and such an order shall be deemed to be an order made under section 64 of this Act.

62. (1) Where an application is made to the Tribunal under section 60 for sanctioning of a compromise or arrangement proposed between a limited liability partnership and any such persons as are mentioned in that section, and it is shown to the Tribunal that—

Provisions for facilitating reconstruction or amalgamation of limited liability partnerships.

(a) compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any limited liability partnership or limited liability partnerships, or the amalgamation of any two or more limited liability partnerships; and

(b) under the scheme the whole or any part of the undertaking, property or liabilities of any limited liability partnership concerned in the scheme (in this section referred to as a "transferor limited liability partnership") is to be transferred to another limited liability partnership (in this section referred to as the "transferee limited liability partnership"),

the Tribunal may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provisions for all or any of the following matters, namely:—

(i) the transfer to the transferee limited liability partnership of the whole or any part of the undertaking, property or liabilities of any transferor limited liability partnership;

(ii) the continuation by or against the transferee limited liability partnership of any legal proceedings pending by or against any transferor limited liability partnership;

(iii) the dissolution, without winding up, of any transferor limited liability partnership;

(iv) the provision to be made for any person who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement; and

(v) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out:

Provided that no compromise or arrangement proposed for the purposes of, or in connection with, a scheme for the amalgamation of a limited liability partnership, which is being wound up, with any other limited liability partnership or limited liability

partnerships, shall be sanctioned by the Tribunal unless the Tribunal has received a report from the Registrar that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest:

Provided further that no order for the dissolution of any transferor limited liability partnership under clause (iii) shall be made by the Tribunal unless the Official Liquidator has, on scrutiny of the books and papers of the limited liability partnership, made a report to the Tribunal that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest.

(2) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee limited liability partnership; and in the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.

(3) Within thirty days after the making of an order under this section, every limited liability partnership in relation to which the order is made shall cause a certified copy thereof to be filed with the Registrar for registration.

(4) If default is made in complying with the provisions of sub-section (3), the limited liability partnership, every designated partner of the limited liability partnership shall be punishable with fine which may extend to fifty thousand rupees.

*Explanation.*— In this section “property” includes property, rights and powers of every description; and “liabilities” includes duties of every description.

### CHAPTER XIII

#### WINDING UP AND DISSOLUTION

Winding up and dissolution.

63. The winding up of a limited liability partnership may be either voluntary or by the Tribunal and limited liability partnership, so wound up may be dissolved.

Circumstances in which limited liability partnership may be wound up by Tribunal.

64. A limited liability partnership may be wound up by the Tribunal,—

(a) if the limited liability partnership decides that limited liability partnership be wound up by the Tribunal;

(b) if, for a period of more than six months, the number of partners of the limited liability partnership is reduced below two;

(c) if the limited liability partnership is unable to pay its debts;

(d) if the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;

(e) if the limited liability partnership has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or

(f) if the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

Rules for winding up and dissolution.

65. The Central Government may make rules for the provisions in relation to winding up and dissolution of limited liability partnerships.

### CHAPTER XIV

#### MISCELLANEOUS

Business transactions of partner with limited liability partnership.

66. A partner may lend money to and transact other business with the limited liability partnership and has the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.



1 of 1956.

67. (1) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 1956 specified in the notification—

Application of the provisions of the Companies Act.

(a) shall apply to any limited liability partnership; or

(b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.

(2) A copy of every notification proposed to be issued under sub-section (1) shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

68. (1) Any document required to be filed, recorded or registered under this Act may be filed, recorded or registered in such manner and subject to such conditions as may be prescribed.

Electronic filing of documents.

21 of 2000.

(2) A copy of or an extract from any document electronically filed with or submitted to the Registrar which is supplied or issued by the Registrar and certified through affixing digital signature as per the Information Technology Act, 2000 to be a true copy of or extract from such document shall, in any proceedings, be admissible in evidence as of equal validity with the original document.

(3) Any information supplied by the Registrar that is certified by the Registrar through affixing digital signature to be a true extract from any document filed with or submitted to the Registrar shall, in any proceedings, be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document.

69. Any document or return required to be filed or registered under this Act with the Registrar, if, is not filed or registered in time provided therein, may be filed or registered after that time upto a period of three hundred days from the date within which it should have been filed, on payment of additional fee of one hundred rupees for every day of such delay in addition to any fee as is payable for filing of such document or return:

Payment of additional fee.

Provided that such document or return may, without prejudice to any other action or liability under this Act, also be filed after such period of three hundred days on payment of fee and additional fee specified in this section.

70. In case a limited liability partnership or any partner or designated partner of such limited liability partnership commits any offence, the limited liability partnership or any partner or designated partner shall, for the second or subsequent offence, be punishable with imprisonment as provided, but in case of offences for which fine is prescribed either along with or exclusive of imprisonment, with fine which shall be twice the amount of fine for such offence.

Enhanced punishment.

71. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Application of other laws not barred.

72. (1) The Tribunal shall exercise such powers and perform such functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

Jurisdiction of Tribunal and Appellate Tribunal.

(2) Any person aggrieved by an order or decision of Tribunal may prefer an appeal to the Appellate Tribunal and the provisions of sections 10FQ, 10FZA, 10G, 10GD, 10GE and 10GF of the Companies Act, 1956 shall be applicable in respect of such appeal.

1 of 1956.

73. Whoever fails to comply with any order made by the Tribunal under any provision of this Act shall be punishable with imprisonment which may extend to six months and shall also be liable to a fine which shall not be less than fifty thousand rupees.

Penalty on non-compliance of any order passed by Tribunal.



## General penalties.

74. Any person guilty of an offence under this Act for which no punishment is expressly provided shall be liable to a fine which may extend to five lakh rupees but which shall not be less than five thousand rupees and with a further fine which may extend to fifty rupees for every day after the first day after which the default continues.

## Power of Registrar to strike defunct limited liability partnership off register.

75. Where the Registrar has reasonable cause to believe that a limited liability partnership is not carrying on business or its operation, in accordance with the provisions of this Act, the name of limited liability partnership may be struck off the register of limited liability partnerships in such manner as may be prescribed:

Provided that the Registrar shall, before striking off the name of any limited liability partnership under this section, give such limited liability partnership a reasonable opportunity of being heard.

## Offences by limited liability partnerships.

76. Where an offence under this Act committed by a limited liability partnership is proved —

(a) to have been committed with the consent or connivance of a partner or partners or designated partner or designated partners of the limited liability partnership; or

(b) to be attributable to any neglect on the part of the partner or partners or designated partner or designated partners of that limited liability partnership,

the partner or partners or designated partner or designated partners of the limited liability partnership, as the case may be, as well as that limited liability partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

## Jurisdiction of Court.

77. Notwithstanding any provision to the contrary in any Act for the time being in force, the Judicial Magistrate of the first class or, as the case may be, the Metropolitan Magistrate shall have jurisdiction to try any offence under this Act and shall have power to impose punishment in respect of said offence.

## Power to alter Schedules.

78. (1) The Central Government may, by notification in the Official Gazette, alter any of the provisions contained in any of the Schedules to this Act.

(2) Any alteration notified under sub-section (1) shall have effect as if enacted in the Act and shall come into force on the date of the notification, unless the notification otherwise directs.

(3) Every alteration made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the alteration, or both Houses agree that the alteration should not be made, the alteration shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done in pursuance of that alteration.

## Power to make rules.

79. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) form and manner of prior consent to be given by designated partner under sub-section (3) of section 7;

(b) the form and manner of particulars of every individual agreeing to act as designated partner of limited liability partnership under sub-section (4) of section 7;

(c) the conditions and requirements relating to the eligibility of an individual to become a designated partner under sub-section (5) of section 7;

(d) the manner of filing the incorporation document and payment of fees payable thereof under clause (b) of sub-section (1) of section 11;

(e) the form of statement to be filed under clause (c) of sub-section (1) of section 11;

(f) the form of incorporation document under clause (a) of sub-section (2) of section 11;

(g) the information to be contained in the incorporation document concerning the proposed limited liability partnership under clause (g) of sub-section (2) of section 11;

(h) the manner of serving the documents on a limited liability partnership or a partner or a designated partner and the form and manner in which any other address may be declared by the limited liability partnership under sub-section (2) of section 13;

(i) the form and manner of notice to the Registrar and the conditions in respect of change of registered office under sub-section (3) of section 13;

(j) the form and manner of application and amount of fee payable to the Registrar under sub-section (1) of section 16;

(k) the manner in which names will be reserved by the Registrar under sub-section (2) of section 16;

(l) the manner in which an application may be made by an entity under sub-section (1) of section 18;

(m) the form and manner of notice of change of name of limited liability partnership and the amount of fee payable under section 19;

(n) the form and manner of the limited liability partnership agreement and the changes made therein and the amount of fee payable under sub-section (2) of section 23;

(o) the form of notice, the amount of fee payable and the manner of authentication of the statement under clauses (a), (b) and (c) of sub-section (3) of section 25;

(p) the manner of accounting and disclosure of monetary value of contribution of a partner under sub-section (2) of section 32;

(q) the books of account and the period of their maintenance under sub-section (1) of section 34;

(r) the form of Statement of Account and Solvency under sub-section (2) of section 34;

(s) the form, manner, fee and time of filing of Statement of Account and Solvency under sub-section (3) of section 34;

(t) the audit of accounts of a limited liability partnership under sub-section (4) of section 34;

(u) the form and manner of annual return and fee payable under sub-section (1) of section 35;

(v) the manner and amount of fee payable for inspection of incorporation document, names of partners and changes made therein, Statement of Account and Solvency and annual return under section 36;

(w) the destruction of documents by Registrar in any form under section 40;

(x) the amount required as security under clause (a) of sub-section (3) of section 43;



- (y) the amount of security to be given under section 44;
- (z) the fee payable for furnishing a copy under clause (b) of sub-section (2) of section 49;
- (za) the manner of authentication of report of inspector under section 54;
- (zb) the form and manner of particulars about conversion under the proviso to sub-section (1) of section 58;
- (zc) in relation to establishment of place of business and carrying on business in India by foreign limited liability partnerships and regulatory mechanism and composition under section 59;
- (zd) the manner of calling, holding and conducting meeting under sub-section (1) of section 60;
- (ze) in relation to winding up and dissolution of limited liability partnerships under section 65;
- (zf) the manner and conditions for filing document electronically under sub-section (1) of section 68;
- (zg) the manner for striking off the names of limited liability partnerships from the register under section 75;
- (zh) the form and manner of statement containing particulars and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Second Schedule;
- (zi) the form and manner of particulars about conversion under the proviso to paragraph 5 of the Second Schedule;
- (zj) the form and manner of the statement and the amount of fee payable under sub-paragraph (a) of paragraph 3 of the Third Schedule;
- (zk) the form and manner of particulars about conversion under the proviso to paragraph 4 of the Third Schedule;
- (zl) the form and manner of the statement and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Fourth Schedule; and
- (zm) the form and manner of particulars about conversion under the proviso to paragraph 5 of the Fourth Schedule.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to  
remove  
difficulties.

80. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.



1 of 1956.

81. Until the Tribunal and the Appellate Tribunal are constituted under the provisions of the Companies Act, 1956, the provisions of this Act shall have effect subject to the following modifications, namely:—

Transitional provisions.

(a) for the word "Tribunal" occurring in clause (b) of sub-section (1) of section 41, clause (a) of sub-section (1) of section 43 and section 44, the words "Company Law Board" had been substituted;

(b) for the word "Tribunal" occurring in section 51 and in sections 60 to 64, the words "High Court" had been substituted;

(c) for the words "Appellate Tribunal" occurring in sub-section (2) of section 72, the words "High Court" had been substituted.

## THE FIRST SCHEDULE

[See section 23(4)]

PROVISIONS REGARDING MATTERS RELATING TO MUTUAL RIGHTS AND DUTIES OF PARTNERS AND LIMITED LIABILITY PARTNERSHIP AND ITS PARTNERS APPLICABLE IN THE ABSENCE OF ANY AGREEMENT ON SUCH MATTERS

1. The mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and its partners shall be determined, subject to the terms of any limited liability partnership agreement or in the absence of any such agreement on any matter, by the provisions in this Schedule.

2. All the partners of a limited liability partnership are entitled to share equally in the capital, profits and losses of the limited liability partnership.

3. The limited liability partnership shall indemnify each partner in respect of payments made and personal liabilities incurred by him —

(a) in the ordinary and proper conduct of the business of the limited liability partnership; or

(b) in or about anything necessarily done for the preservation of the business or property of the limited liability partnership.

4. Every partner shall indemnify the limited liability partnership for any loss caused to it by his fraud in the conduct of the business of the limited liability partnership.

5. Every partner may take part in the management of the limited liability partnership.

6. No partner shall be entitled to remuneration for acting in the business or management of the limited liability partnership.

7. No person may be introduced as a partner without the consent of all the existing partners.

8. Any matter or issue relating to the limited liability partnership shall be decided by a resolution passed by a majority in number of the partners, and for this purpose, each partner shall have one vote. However, no change may be made in the nature of business of the limited liability partnership without the consent of all the partners.

9. Every limited liability partnership shall ensure that decisions taken by it are recorded in the minutes within thirty days of taking such decisions and are kept and maintained at the registered office of the limited liability partnership.

10. Each partner shall render true accounts and full information of all things affecting the limited liability partnership to any partner or his legal representatives.

11. If a partner, without the consent of the limited liability partnership, carries on any business of the same nature as and competing with the limited liability partnership, he must account for and pay over to the limited liability partnership all profits made by him in that business.

12. Every partner shall account to the limited liability partnership for any benefit derived by him without the consent of the limited liability partnership from any transaction concerning the limited liability partnership, or from any use by him of the property, name or any business connection of the limited liability partnership.

13. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

14. All disputes between the partners arising out of the limited liability partnership agreement which cannot be resolved in terms of such agreement shall be referred for arbitration as per the provisions of the Arbitration and Conciliation Act, 1996.



## THE SECOND SCHEDULE

(See section 55)

## CONVERSION FROM FIRM INTO LIMITED LIABILITY PARTNERSHIP

1. In this Schedule, unless the context otherwise requires, —

Interpretation.

9 of 1932.

(a) "firm" means a firm as defined in section 4 of the Indian Partnership Act, 1932;

(b) "convert", in relation to a firm converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the firm to the limited liability partnership in accordance with this Schedule.

2. (1) A firm may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

Conversion from firm into limited liability partnership.

(2) Upon such conversion, the partners of the firm shall be bound by the provisions of this Schedule that are applicable to them.

3. A firm may apply to convert into a limited liability partnership in accordance with this Schedule if and only if the partners of the limited liability partnership into which the firm is to be converted, comprise, all the partners of the firm and no one else.

Eligibility for conversion.

4. A firm may apply to convert into a limited liability partnership by filing with the Registrar —

Statements to be filed.

(a) a statement by all of its partners in such form and manner and accompanied by such fee as the Central Government may prescribe, containing the following particulars, namely:—

(i) the name and registration number, if applicable, of the firm; and

9 of 1932.

(ii) the date on which the firm was registered under the Indian Partnership Act, 1932 or under any other law, if applicable, and

(b) incorporation document and statement referred to in section 11.

5. On receiving the documents referred to in paragraph 4, the Registrar shall subject to the provisions of this Act, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Registration of conversion.

9 of 1932.

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform, the concerned Registrar of Firms with which it was registered under the provisions of the Indian Partnership Act, 1932 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Registrar may refuse to register.

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.

7. On and from the date of registration specified in the certificate of registration issued under paragraph 5,—

Effect of registration.

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;



(b) all tangible (movable and immovable) property as well as intangible property vested in the firm, all assets, interests, rights, privileges, liabilities, obligations relating to the firm and the whole of the undertaking of the firm shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm shall be deemed to be dissolved and if earlier registered under the Indian Partnership Act, 1932 removed from the records maintained under that Act. 9 of 1932.

Registration in relation to property.

8. If any property to which sub-paragraph (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such medium and form as the authority may specify.

Pending proceedings.

9. All proceedings by or against the firm which are pending in any Court or Tribunal or before any authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment.

10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the firm may be enforced by or against the limited liability partnership.

Existing agreements.

11. Every agreement to which the firm was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —

(a) the limited liability partnership were a party to such an agreement instead of the firm; and

(b) for any reference to the firm, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc.

12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the firm or to which the firm is a party, shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the firm.

Continuance of employment.

13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue to be in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the firm.

Existing appointment, authority or power.

14. (1) Every appointment of the firm in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the firm which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

Application of paragraphs 7 to 14.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the firm under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Partner liable for liabilities and obligations of firm before conversion.

16. (1) Notwithstanding anything in paragraphs 7 to 14 (both inclusive), every partner of a firm that has converted into a limited liability partnership shall continue to be personally liable (jointly and severally with the limited liability partnership) for the liabilities and obligations of the firm which were incurred prior to the conversion or which arose from any contract entered into prior to the conversion.

(2) If any such partner discharges any liability or obligation referred to in sub-paragraph (1), he shall be entitled (subject to any agreement with the limited liability partnership to the contrary) to be fully indemnified by the limited liability partnership in respect of such liability or obligation.

17. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following:

Notice of  
conversion in  
correspondence.

(a) a statement that it was, as from the date of registration, converted from a firm into a limited liability partnership; and

(b) the name and registration number, if applicable, of the firm from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.



## THE THIRD SCHEDULE

(See section 56)

## CONVERSION FROM PRIVATE COMPANY INTO LIMITED LIABILITY PARTNERSHIP

Interpretation.

1. In this Schedule, unless the context otherwise requires, —

(a) "company" means a private company as defined in clause (iii) of sub-section (1) of section 3 of the Companies Act, 1956;

1 of 1956.

(b) "convert", in relation to a private company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the private company to the limited liability partnership in accordance with this Schedule.

Eligibility for conversion of private companies into limited liability partnership.

2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

(2) A company may apply to convert into a limited liability partnership in accordance with this Schedule if and only if —

(a) there is no security interest in its assets subsisting or in force at the time of application; and

(b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.

(3) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.

Statements to be filed.

3. A company may apply to convert into a limited liability partnership by filing with the Registrar —

(a) a statement by all its shareholders in such form and manner to be accompanied by such fees as the Central Government may prescribe, containing the following particulars, namely:—

(i) the name and registration number of the company;

(ii) the date on which the company was incorporated; and

(b) incorporation document and statement referred to in section 11.

Registration of conversion.

4. On receiving the documents referred to in paragraph 3, the Registrar shall, subject to the provisions of this Act and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

1 of 1956.

Registrar may refuse to register.

5. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 3 to be verified in such manner, as he considers fit.



6. On and from the date of registration specified in the certificate of registration issued under paragraph 4—
- Effect of registration.
- (a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;
- (b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and
- (c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.
7. If any property to which clause (b) of paragraph 6 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.
- Registration in relation to property.
8. All proceedings by or against the company which are pending before any Court, Tribunal or other authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.
- Pending proceedings.
9. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.
- Continuance of conviction, ruling, order or judgment.
10. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —
- Existing agreements.
- (a) the limited liability partnership were a party to such an agreement instead of the company; and
- (b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.
11. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.
- Existing contracts, etc.
12. Every contract of employment to which paragraph 10 or paragraph 11 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.
- Continuance of employment.
13. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.
- Existing appointment, authority or power.
- (2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.
14. The provisions of paragraphs 6 to 13 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.
- Application of paragraphs 6 to 13.

Notice of  
conversion in  
correspondence.

15. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.



## THE FOURTH SCHEDULE

(See section 57)

## CONVERSION FROM UNLISTED PUBLIC COMPANY INTO LIMITED LIABILITY PARTNERSHIP

15 of 1992.

1. (1) In this Schedule, unless the context otherwise requires,—
- (a) "company" means an unlisted public company;
- (b) "convert", in relation to a company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the company to the limited liability partnership in accordance with the provisions of this Schedule;
- (c) "listed company" means a listed company as defined in the Securities Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 issued by the Securities and Exchange Board of India under section 11 of the Securities and Exchange Board of India Act, 1992;
- (d) "unlisted public company" means a company which is not a listed company.
2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.
- (2) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.
3. A company may apply to convert into a limited liability partnership in accordance with the provisions of this Schedule if and only if—
- (a) there is no security interest in its assets subsisting or in force at the time of application; and
- (b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.
4. A company may apply to convert into a limited liability partnership by filing with the Registrar—
- (a) a statement by all its shareholders in such form and manner to be accompanied by such fee as the Central Government may prescribe containing the following particulars, namely:—
- (i) the name and registration number of the company;
- (ii) the date on which the company was incorporated; and
- (b) incorporation document and statement referred to in section 11.
5. On receiving the documents referred to in paragraph 4, the Registrar shall, subject to the provisions of this Act, and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:
- Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.
6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Interpretation.

Conversion of company into a limited liability partnership.

Eligibility for conversion.

Statements to be filed.

Registration of conversion.

Registrar may refuse to register.



Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.

Effect of  
registration.

7. On and from the date of registration specified in the certificate of registration issued under paragraph 5—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.

Registration in  
relation to  
property.

8. If any property to which clause (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.

Pending  
proceedings.

9. All proceedings by or against the company which are pending in any Court or Tribunal or before an authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of  
conviction,  
ruling, order or  
judgment.

10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.

Existing  
agreements.

11. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if —

(a) the limited liability partnership were a party to such an agreement instead of the company; and

(b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing  
contracts, etc.

12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.

Continuance of  
employment.

13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.

Existing  
appointment,  
authority or  
power.

14. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued. Application of paragraphs 7 to 14

16. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely :- Notice of conversion in correspondence

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership: and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

Sd/-

**T. K. Viswanathan**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No. : RPB/23-09/Act-7-09/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department

New Delhi, the 9<sup>th</sup> January, 2009/Pausa 19, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 7<sup>th</sup> January, 2009, is hereby published for general information :-

#### THE COLLECTION OF STATISTICS ACT, 2008

(Act No: 7 of 2009) AN ACT [7<sup>th</sup> January, 2009]

*to facilitate the collection of statistics on economic, demographic, social, scientific and environmental aspects, and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Collection of Statistics Act, 2008.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement

2. In this Act, unless the context otherwise requires,-

Definitions

(a) "agency" includes a person or persons engaged by the appropriate Government, directly or by outsourcing, for collection of statistics;

(b) "appropriate Government" means-

(i) any Ministry or department in the Central Government; or



(ii) any Ministry or Department in a State Government or Union territory Administration; or

(iii) any local government that is to say, Panchayats or Municipalities, as the case may be,

in relation to the collection of statistics under a direction issued by it under section 3;

(c) "informant" means any person, who supplies or is required to supply statistical information and includes a owner or occupier or person in-charge or his authorised representative in respect of persons or a firm registered under the Indian Partnership Act, 1932 or a co-operative society registered under any Co-operative Societies Act or a company registered under the Companies Act, 1956 or a society registered under the Societies Registration Act, 1860 or any association recognised or registered under any law for the time being in force;

9 of 1932.  
1 of 1956.  
21 of 1860.

(d) "information schedule" means any book, document, form, card, tape, disc or any storage media on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "sampling" means a statistical procedure by which information relating to a particular field of inquiry is derived by applying statistical techniques to information obtained in respect of a proportion of the total number of persons or units concerned relevant to the field of inquiry;

(g) "statistical survey" means a census or a survey, whereby information is collected from all the informants in the field of inquiry or from a sample thereof, by an appropriate Government under this Act or any other relevant Act, wholly or primarily for the purposes of processing and summarising by appropriate statistical procedures;

(h) "statistics" means statistics derived by collecting, classifying and using statistics, specially in or for large quantities or numbers by appropriate Government from statistical surveys, administrative and registration records, and other forms and papers, the statistical analysis of which are, whether in a published or unpublished form;

(i) "statistics officer" means any officer appointed under section 4 for the purposes of any direction issued under section 3 of this Act.

## CHAPTER II

### COLLECTION OF STATISTICS

Collection of statistics.

3. The appropriate Government may, by notification in the Official Gazette, direct that the statistics on economic, demographic, social, scientific and environmental aspects shall be collected through a statistical survey or otherwise, and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that—

(a) nothing contained in this section shall be deemed to authorise a State Government or Union territory Administration or any local government to issue any direction with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I (Union List) in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government or Union territory Administration or any local government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of such statistics by the Central Government remain to be completed; or

(c) where a State Government or Union territory Administration or any local government has issued a direction under this section for the collection of Statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of such statistics by the State Government remain to be completed, except in cases where such statistics have to be collected with reference to two or more States or Union territories.

4. (1) The appropriate Government may appoint or cause to appoint an officer to be the statistics officer for any geographical unit for the purpose of collecting any statistics directed by it.

Powers of appropriate Government to appoint statistics officer, etc.

(2) The appropriate Government may appoint any agency or persons working in such agencies to take, or aid in, or supervise the collection of the statistics within any specified geographical unit and such agencies or persons, when so appointed, shall be bound to serve accordingly.

(3) The appropriate Government may employ on contract basis any agency or company or organisation or association or person, on such terms and conditions and on such safeguards as may be prescribed, for the purpose of collecting the statistics directed by it.

(4) The appropriate Government may delegate to any statistics officer, as it thinks fit, the power of appointing agencies or persons working in such agencies or employing on contract basis any agency or company or organisation or association of persons, conferred on it by sub-sections (2) and (3) within the geographical unit for which such statistics officer is appointed.

(5) The appropriate Government may, by order specify the form, the particulars required or the interval within which, and the statistics officer to whom, the statistical information by the informants shall be furnished.

(6) The appropriate Government may, by order published in the Official Gazette, delegate to any statistics officer, as it thinks fit, any power conferred under sub-section (5) for the purpose of the collection of statistics under a direction issued by it under section 3.

5. The statistics officer may, for the purpose of collection of statistics on any specified subject in any geographical unit for which the said officer was appointed—

Power of statistics officer to call for information.

(a) serve or cause to be served on any informant a notice in writing asking him to furnish the information specified under sub-section (5) of section 4 or cause a information schedule to be given to any informant for the purpose of its being filled up; or

(b) cause all questions relating to the subject to be asked from any informant; or

(c) seek information through tele fax or telephone or e-mail or in any other electronic mode or in a combination of different modes for different sets of information so specified.

6. The informants who are asked to furnish any information under the provisions of this Act shall be bound to furnish the information so asked in the prescribed manner to the best of knowledge or belief; and in cases where only a portion of a particular class or group of persons or units is asked to furnish information because of any sampling procedure, it shall not be a defence in failure on the part of any informant to furnish that information, if so asked.

Duty of informants.

7. Every agency shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions, and shall make available for inspection and examination of such records, plans and other documents, as may be necessary.

All agencies to assist.

Right of access  
to records or  
documents.

8. The statistics officer or any person authorised by him in writing in this behalf shall, for the purposes of collection of any statistics under this Act, have access to any relevant record or document in the possession of any informant required to furnish any information under this Act, and may enter at any reasonable time any premises where he believes such record or document is kept and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

### CHAPTER III

#### DISCLOSURE OF INFORMATION IN CERTAIN CASES AND RESTRICTIONS OF THEIR USE

Security of  
information.

9. (1) Any information furnished to the statistics officer or to any person or agencies authorised under this Act shall only be used for statistical purposes.

(2) No person other than a person engaged in the work of collection of statistics under this Act or preparation of statistics resultant to such collection shall be permitted to see any information schedule or any answer to a question asked, except for the purposes of a prosecution under this Act.

(3) No information contained in any information schedule and no answer to any question asked shall, except for the purposes of a prosecution under this Act, be separately published, or disclosed without suppressing the identification of informants to any agency.

(4) All statistical information published by any agency shall be arranged in such a manner so as to prevent any particulars becoming identifiable by any person (other than the informant by whom those particulars were supplied) as the particulars relating to the informant who supplied it, even through the process of elimination, unless—

(a) that informant has consented to their publication in that manner; or

(b) their publication in that manner could not reasonably have been foreseen by the concerned agency or any employee thereof.

(5) For the purposes of sub-section (4), the Central Government may make such rules or make such arrangement, as it may consider necessary.

Appropriate  
Government  
authorised to  
disclose  
certain  
information.

10. Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose the following information, namely:—

(a) information supplied by informant in respect of which disclosure is consented to in writing by the informant or by any person authorised by the said informant;

(b) information otherwise available to the public under any Act or as a public document;

(c) information in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged.

Disclosure of  
information  
schedules for  
*bona fide*  
research or  
statistical  
purposes.

11. (1) Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose individual returns or formats or information schedules to other agency or person or institutions or universities solely for *bona fide* research or statistical purposes pursuant to their functions and duties.

(2) No individual return or information schedule shall be disclosed pursuant to this section unless—

(a) the name and address of the informant by whom the schedule or related information was supplied is deleted;



(b) every agency or person or institutions or Universities involved in the research or statistical project makes a declaration to use the schedules disclosed to them only for *bona fide* research or statistical purposes; and

(c) the appropriate Government, making such disclosure is satisfied that the security of the schedules and any information contained therein shall not be impaired.

(3) The published results of any research or statistical project shall not divulge any more information than what the agency authorised for collection of statistics could publish under this Act.

(4) Every agency or person or institutions or universities to whom any individual return or information schedule is disclosed under this section shall comply with directions given by the agency authorised for collection of statistics making the disclosure relating to the schedules and any information contained therein.

12. Notwithstanding anything contained in section 9 of this Act, the appropriate Government may release such documents relating to information schedules, which in its opinion have attained historical importance.

Disclosure of historical documents.

13. The statistics officer or any person or agency authorised for collection of statistics shall, while copying or recording any statistical information collected pursuant to this Act from individual returns, information schedules, worksheets or any other confidential source by means of cards, tapes, discs, film or any other method, whether using encoded or plain language symbols for processing, storage or reproduction of particulars, take and cause to take such steps as are necessary to ensure that the security provisions of this Act are complied with.

Security of recorded information.

14. Save as otherwise provided under this Act,—

Restrictions on use of information.

(a) no information obtained pursuant to this Act and no copy of the information in the possession of any informant shall be disclosed or used as evidence in any proceedings whatsoever; and

(b) no person who has access to any information because of his official position in the collection of any statistics shall be compelled in any proceedings whatsoever to give oral testimony regarding the information or to produce any schedule, document, or record with respect to any information obtained in the course of administering this Act,

except in the manner provided under this Act.

#### CHAPTER IV

##### OFFENCES AND PENALTIES

15. (1) Whoever, fails to produce any books of accounts, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act and the rules made thereunder, shall be punishable with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees.

Penalty for neglect or refusal to supply particulars.

(2) The conviction of a person or company for an offence shall not relieve him or it of the obligations under sub-section (1) and if after the expiry of fourteen days from the date of conviction, he or it still fails to give the required particulars or continues to neglect or refuses to fill in and supply the particulars or to answer the question or inquiry, then he or it shall be punishable with a further fine which may extend to one thousand rupees or, in the case of a

company, with a fine which may extend to five thousand rupees, for each day after the first during which the failure continues.

Penalty for making false statement.

16. Whoever, wilfully makes any false or misleading statement or material omission in any information schedule or return filled in or supplied, or in answer to any question asked to him under this Act or the rules made thereunder, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees or with both.

Penalty for mutilation or defacement of information schedule.

17. Whoever, destroys, defaces, removes, or mutilates any information schedule, form, or other document containing particulars collected under this Act or requesting any such particulars, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for obstruction of employees.

18. Whoever, interferes with, hinders, or obstructs any employee in the exercise of any power or duty conferred by this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for other offences.

19. Whoever—

(a) acts in contravention of or fails to comply with any provision of this Act or any requirement imposed under this Act; or

(b) wilfully deceives or attempts to deceive any statistics officer or any agency or any employee thereof,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for failure to carry out duties and functions by employees.

20. If any person employed in the execution of any duty or functions under this Act,—

(a) omits without lawful excuse to carry out his duty, or knowingly makes any false declaration, statement or return; or

(b) pretends performance of his duties or obtains or seeks to obtain information which he is not authorised to obtain; or

(c) fails to keep inviolate the secrecy of the information gathered or entered in the information schedules collected pursuant to this Act and, except as permitted under this Act, divulges the contents of any schedule filled in or any information furnished by any informant under this Act,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for impersonation of employee.

21. Whoever, not being authorised to collect statistics under the provisions of this Act, by words, conduct or demeanor pretends that he is authorised to do so, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

General penalty.

22. Whoever, commits an offence under this Act for which no penalty is prescribed elsewhere than in this section, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

23. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “Director”, in relation to a firm, means a partner in the firm.

24. No court shall take cognizance of any offence under this Act except on a complaint made by the appropriate Government or an officer authorised in this behalf by such appropriate Government or, as the case may be, the statistics officer, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Cognizance of offences.

25. No prosecution for an offence committed by any informant shall be instituted except by or with the sanction of the statistics officer, and no prosecution for an offence committed by persons other than informants shall be instituted except by or with the consent of the appropriate Government.

Sanction for prosecution for offence.

2 of 1974.

26. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Power of court to try cases summarily.

Provided that when in the course of, a summary trial under this section it appears to the Magistrate that the nature of the case is such that it is, for any reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

## CHAPTER V

### POWER IN RESPECT OF CORE STATISTICS

27. Without prejudice to the provisions contained in this Act, the Central Government may, by notification in the Official Gazette, declare from time to time any subject for the collection of statistics of national importance as ‘core statistics’ and make such arrangement, as it may consider necessary, for regulating the collection and dissemination of statistics on the subject so declared.

Power in respect of core statistics.

## CHAPTER VI

### MISCELLANEOUS

28. The Central Government may give directions to any State Government or Union territory Administration or to any local government that is to say Panchayats or Municipalities, as to the carrying into execution of this Act in the State or Union territory or Panchayats or Municipalities, as the case may be.

Power to give directions.



Public  
servants.

29. Any statistics officer and any person authorised for the collection of statistics or preparation of official statistics under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Bar of  
jurisdiction.

30. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the appropriate Government or the statistics officer or the agency is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Protection of  
action taken  
in good faith.

31. No suit or other legal proceedings shall lie against the appropriate Government or agency or any statistics officer or other officers or employees in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules or directions issued thereunder.

Overriding  
effect.

32. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except in relation to the conduct of human population census as per the directions, if any, issued under the Census Act, 1948.

37 of 1948.

Power to  
make rules.

33. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules under this section for all or any of the following matters, namely:—

(a) principles for coordinating as effectively as possible to achieve the objectives of section 3 including nomination and registration of statistics officers by the Central Government and also to avoid unnecessary duplication in the collection of statistics;

(b) the terms, conditions and safeguards under which any person or agency or company or organisation or association may be engaged by the appropriate Government for the purpose of collection of statistics under sub-section (3) of section 4;

(c) principles for prescribing the form and manner in which the information may be required to be furnished;

(d) principles for prescribing the manner in which the right of access to documents and the right of entry conferred by section 8 may be exercised; and

(e) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and  
savings.

34. (1) The Collection of Statistics Act, 1953 is hereby repealed.

32 of 1953.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

(3) All rules made under the said Act shall continue to be in force and operate till new rules are made under this Act.

Sd/-

**T. K. Viswanathan**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. L]

WEDNESDAY, JULY 29, 2009/SRAVANA 7, 1931

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No. : RPB/24-09/Act-8-09/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department

New Delhi, the 13<sup>th</sup> January, 2009/Pausa 23, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 11<sup>th</sup> January, 2009, is hereby published for general information :-

#### THE SOUTH ASIAN UNIVERSITY ACT, 2008

(Act No. 8 of 2009)

AN ACT

[11<sup>th</sup> January, 2009]

*to give effect to the Agreement for the establishment of South Asian University and for matters connected therewith or incidental thereto.*

*WHEREAS* an Agreement for the establishment of the South Asian University was signed on behalf of the respective Governments of the Member States of the South Asian Association for Regional Co-operation (SAARC) on the 4th day of April, 2007;

*AND WHEREAS* Article 1 of the said Agreement provides that the main campus of the University shall be located in India, therefore, it is expedient to make provisions for giving effect to the said Agreement;

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the South Asian University Act, 2008.
- (2) It extends to the whole of India and to campuses and centres established outside India in the SAARC region.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Short title,  
extent and  
commencement



## Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) "Academic Council" means the Academic Council of the University;
- (b) "academic staff" means such categories of staff as are designated as academic staff by the Statutes;
- (c) "Agreement" means the Agreement for the establishment of the South Asian University;
- (d) "bye-laws" means the bye-laws of the University;
- (e) "Centre" means a unit of the University or of a University Institute providing teaching, consultancy and research facilities and includes a Regional Centre;
- (f) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (g) "Executive Council" means the Executive Council of the University;
- (h) "Faculty" means a Faculty of the University;
- (i) "Governing Board" means a Governing Board of the University constituted under section 6;
- (j) "Hall" means a unit of residence, by whatever name called, for students of the University provided, maintained or recognised by it;
- (k) "Host Country" means the Republic of India;
- (l) "Host Government" means the Government of the Host Country;
- (m) "Member States" means the Member States of the SAARC;
- (n) "prescribed" means prescribed by Statutes, Regulations or bye-laws;
- (o) "President" means the President of the University appointed under section 12;
- (p) "Project Office" means the project office set up for the purpose of carrying out necessary tasks for establishing the main campus of the University;
- (q) "Recognised institution" means an institution of higher learning maintained or recognised by, or associated with, the University;
- (r) "Regional Centre" means a centre established or maintained by the University at any place in the SAARC region for the purpose of coordinating and supervising the work of campuses or centres in such region and for performing such functions as may be conferred on such centre by the Governing Board;
- (s) "Regulations" means the Regulations of the University;
- (t) "SAARC" means an organisation known as the South Asian Association for Regional Co-operation established by the Charter of the South Asian Association for Regional Co-operation signed on eighth day of December, 1985;
- (u) "SAARC region" means the region comprising the territories of the Member States;
- (v) "Schedule" means the Schedule of the Act;
- (w) "Statutes" means the Statutes of the University;
- (x) "teacher" means professor, reader, lecturer and research staff of the University appointed or recognised by the University for imparting instructions in the University or for giving guidance to students for pursuing any course of study of the University;
- (y) "University" means the South Asian University incorporated under section 4.

3. Notwithstanding anything contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India.

Provisions of Agreement to have force of law.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established, for the purposes of giving effect to provisions of the Agreement, a University to be called as South Asian University.

Incorporation of South Asian University.

(2) The University shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the said name.

(3) The Headquarters of the University shall be at Delhi.

(4) The University may establish or maintain campuses and centres at such other places within India and outside India in the SAARC region as it may deem fit.

5. The jurisdiction of the University shall extend to whole of India and to campuses and centres established outside India in the SAARC region:

Jurisdiction.

Provided that where the University establishes and maintains any campus or centre outside India at any place in the SAARC region, then the jurisdiction of the University shall extend to such campus or centre, subject to the provision of the Agreement and laws in force in any of the Member States within which such campus or centre is situated.

6. (1) There shall be a Governing Board of the University consisting of two members from each of the Member States of the SAARC and the President of the University:

Governing Board.

Provided that until the first Governing Board is formed, the Inter-Governmental Steering Committee of the SAARC shall function as an interim Governing Board.

(2) The Governing Board shall be headed by the Chairperson who shall be elected from amongst the members of the Governing Board.

(3) The members of the Governing Board shall be selected in such manner and for such term as provided in Article 5 of the Schedule.

(4) The President of the University shall be the *ex officio* member of the Governing Board.

(5) The Governing Board shall be responsible for all the policies and directions of the University and management of its affairs.

(6) The Chairperson of the Board shall exercise such powers as may be prescribed by the Statutes.

7. The objectives of the University shall be—

Objectives of University.

(a) to disseminate and advance knowledge, wisdom and understanding by providing instructional and research facilities in such branches of learning as it may deem fit;

(b) to take appropriate measures for promoting innovations in teaching-learning process, inter-disciplinary studies and application of knowledge to social advancement, and human welfare and to the promotion of regional peace and security;

(c) to impart liberal and humane education towards capacity building of the South Asian nations in the domain of science, technology and other areas of higher learning vital for improving their quality of life and to give students the analytical tools needed for the pursuit of profession and inculcate in them the quality of leadership;

(d) to foster in the students sound civic sense and to train them to become useful citizens of democratic societies;

(e) to build a South Asian community of learning where students from countries of South Asia are able to develop their fullest intellectual potential and to create a South Asian community by strengthening regional consciousness; and

(f) to harmonise the academic standards and accreditation norms in teaching, research and curriculum that are acceptable to all Member States.

Powers of  
University.

8. The University shall have the following powers, namely:—

(i) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to establish such special centres and specialised laboratories and such other units for research and instruction as are necessary for the furtherance of its objects;

(iii) to plan and prescribe courses of study for degrees, diplomas, certificates or for any other purpose;

(iv) to grant, subject to such conditions as the University may determine, diplomas or certificates and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(v) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(vi) to organise and to undertake open learning programmes, extramural studies, training and extension services;

(vii) to institute Chairs, principalships, professorships, readerships and lecturerships and other teaching and academic positions, required by the University and to appoint persons to such Chairs, Principalships, Professorships, Readerships and lecturerships and other teaching and academic positions;

(viii) to appoint visiting professors, Emeritus professors, consultants, scholars and such other persons who may contribute to the advancement of the objects of the University;

(ix) to recognise persons as Professors, Readers or Lecturers or otherwise as teachers of the University;

(x) to create administrative and other posts as the University may deem necessary from time to time and to make appointments thereto;

(xi) to lay down conditions of service of all categories of employees, including their code of conduct;

(xii) to establish and maintain campuses, Centres, Regional Centres as may be determined from time to time;

(xiii) to admit to its privileges institutions situated within its jurisdiction as the University institutions and to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes;

(xiv) to co-operate or collaborate or associate with any other University or authority or institution of higher learning or any other public or private body, having in view the promotion of purposes and objects similar to those of the University, in such manner as may be prescribed and for such purposes as may be determined or agreed upon by the University;

(xv) to determine standards of admission, including examination, evaluation or any other method of testing, to the University, and the institutions maintained by or admitted to the privileges of the University;



(xvi) to demand and receive payment of fees and other charges as may be prescribed;

(xvii) to establish Halls and to recognise, guide, supervise and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xviii) to make arrangements for promoting health and general welfare of students and employees of the University;

(xix) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xx) to institute and award Fellowships, Scholarships, Studentships and prizes;

(xxi) to receive benefactions, donations and gifts in accordance with the regulations made by the Governing Board as per norms of the SAARC and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties, for the purposes or objects of the University and to invest funds in such manner as it deems fit;

(xxii) to borrow, with the approval of the Governing Board, on the security of the University property, money for purposes of the University;

(xxiii) to recognise for any purpose, either in whole or in part, any institution or members or students thereof on such terms and conditions as may, from time to time, be prescribed and to withdraw such recognition;

(xxiv) to enter into any agreement for the incorporation of any other institution in the University and for taking its rights, properties and liabilities and for any other purpose not repugnant to this Act;

(xxv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions or bodies as it may deem necessary;

(xxvi) to provide for the printing, reproduction and publication of research and other work which may be issued by the University;

(xxvii) to exercise such other powers accorded to it under the Agreement; and

(xxviii) to do all such other acts as may be necessary, incidental or conducive to the promotion of all or any of the objects of the University.

9. The University shall be open to all persons irrespective of gender, caste, creed, disability, ethnicity or socio-economic background and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof. University open to all persons.

10. (1) The Foreign Minister of the current Chair of the SAARC shall be the Visitor of the University. Visitor.

(2) The Visitor shall have such powers as may be prescribed by the Statutes.

11. (1) There shall be a President of the University, and such other officers appointed in such manner as may be prescribed, who shall exercise such powers and functions as may be prescribed. Officers of University.

(2) The President shall be the Chief Executive Officer of the University.

President and  
its powers.

12. (1) The President shall be appointed by the Governing Board in such manner as may be prescribed by the Statutes:

Provided that until the President is appointed, the Chief Executive Officer of the Project Office shall exercise the powers of the President and function as Chief Executive Officer of the University.

(2) The President shall, as the Chief Executive Officer, exercise general supervision and control over the affairs of the University and shall be responsible for implementing the objectives of the University and fulfilling the policy directives of the Governing Board.

(3) The President may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that such exercise of power shall be made only in emergent situations and in no case in respect of creation and upgradation of posts, and appointments thereto:

Provided further that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Governing Board whose decision thereon shall be final.

(4) The President, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act and the Statutes or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Governing Board whose decision thereon shall be final.

(5) The President or any officer of the University, authorised by him in this behalf, shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University.

(6) The President shall exercise such other powers as may be prescribed by the Statutes.

Other officers.

13. The manner of appointment and powers and duties of other officers of the University shall be such as may be prescribed by the Statutes.

Privileges and  
immunities of  
President and  
academic staff.

14. The University, the President and the members of the academic staff and, where applicable, their dependents or members of the family, shall enjoy such privileges and immunities as the Central Government may notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947.

46 of 1947.

Authorities of  
University.

15. The following shall be the authorities of the University—

- (a) the Executive Council,
- (b) the Academic Council, and

(c) such other authorities as may be declared by the Governing Board in the Statutes to be the authorities of the University.

Executive  
Council.

16. (1) The Executive Council shall be the executive body of the University and shall exercise powers to give effect to the directions or decisions of the President and the Governing Board.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.



17. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and Regulations, co-ordinate and exercise general supervision over the academic policies of the University.

Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

18. The constitution of the authorities under clause (c) of section 15, the terms of the office of the members of such authorities and their powers and duties shall be such as may be prescribed by the Statutes.

Constitution of other authorities.

19. (1) The University shall have such faculties as may be prescribed by the Statutes.

Faculties and Departments.

(2) Each Faculty shall have such Departments or Schools of Studies as are prescribed by the Statutes, and each Department or Schools of Studies shall have such subjects of study as may be assigned to it by Regulations.

20. (1) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) powers of the Visitor;

(b) powers of the Chairperson of the Governing Board;

(c) manner of appointment of the President and its powers;

(d) the constitution, powers and functions of the Executive Council, Academic Council and other authorities and bodies of the University;

(e) categories of academic staff;

(f) appointment of teachers, academic staff and other employees of the University;

(g) establishment of faculties of the University;

(h) the conditions under which institution may be admitted to the privileges of the University and the withdrawal of such privileges;

(i) the conferment of honorary degrees;

(j) delegation of powers vested in the authorities or officers of the University;

(k) setting up of a machinery for redressal of grievances between employees or the students and the University; and

(l) all other matters which by this Act are to be or may be provided for by the Statutes.

(2) The First Statutes shall be those as may be made for the operation of the University by the Inter-Governmental Steering Committee of the SAARC.

(3) The Governing Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (2):

Provided that the Governing Board shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed has been considered by the Governing Board.

21. (1) Subject to the provisions of this Act and the Statutes, the Regulations may provide for all or any of the following matters, namely:—

Regulations.

(a) the admission and enrolment of students to the University and institutions maintained by, or admitted to, the privileges of the University;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;



(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the institution of, and conditions for award of, fellowships, scholarships, studentships and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the establishment of Centres, University Institutes, Departments, Schools of Studies, Boards of Studies, specialised laboratories and Committees;

(k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(l) the manner of co-operation and collaboration with other Universities, institutions and other bodies or associations; and

(m) all other matters which by this Act or the Statutes are to be or may be provided for by the Regulations.

(2) The First Regulations shall be made by the Chief Executive Officer of the Project Office with the prior approval of the Inter-Governmental Steering Committee and the Regulations so made may be amended, repealed or added to any time by the Governing Board in the manner prescribed by the Statutes.

Bye-laws.

22. The authorities of the University may make bye-laws consistent with this Act, the Statutes and the Regulations for the conduct of their own business and not provided for by this Act, the Statutes or the Regulations, in the manner as may be prescribed by Statutes.

Power to give retrospective effect to Statutes and Regulations.

23. The power to make Statutes or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes or Regulations or any of them but no retrospective effect shall be given to any Statute or Regulation so as to prejudicially affect the interests of any person to whom such Statute or Regulation may be applicable.

Annual report.

24. (1) The annual report of the University shall be prepared under the direction of the Governing Board and shall be considered by the University at its annual meeting. The annual report of the University shall also be presented to the session of the Council of Ministers of the SAARC.

(2) The annual report of the University shall be circulated to all the SAARC Member States through the SAARC Secretariat.

Audit of accounts.

25. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by any person or firm authorised by the Governing Board.

(2) The accounts of the University shall be audited, as per existing norms as laid down by the SAARC.

(3) The accounts, when audited shall be published, and a copy of the accounts together with the audited report shall be submitted to the Secretary-General of the SAARC.

26. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned. Conditions of service of employees.

(2) Any dispute arising out of the contract between the University and any employee shall be referred to the Tribunal for Arbitration constituted for that purpose.

(3) The decision of the Tribunal shall be final and no suit shall lie in any court in respect of the matters decided by the Tribunal.

(4) The procedure for regulating the work of the Tribunal under sub-section (2) shall be prescribed by the Statutes.

27. Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal for Arbitration and the provisions of sub-sections (2), (3) and (4) of section 26 shall, as far as may be, apply to the reference made under this section. Procedure of arbitration in disciplinary cases against students.

28. No act or proceedings of the University or any of its authorities or bodies shall be invalid merely by reason of the existence of a vacancy or vacancies among its members. Proceedings of University authorities or bodies not invalidated by vacancies.

29. No suit or other legal proceeding shall lie against the University, any of its officers or employees for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act. Protection of action taken in good faith.

30. All differences arising out of the interpretation or application of the Agreement shall be referred to the SAARC Arbitration Council, unless in any case it is agreed by the parties to have recourse to another mode of settlement. Reference to SAARC Arbitration Council.

31. (1) The Statutes, Regulations and bye-laws made under this Act shall be published in the Official Gazette. Statutes and Regulations and bye-laws to be published in Official Gazette and to be laid before Parliament.

(2) Every Statute, Regulation or bye-law made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament.

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of the period of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.

## THE SCHEDULE

(See section 3)

## PROVISIONS OF THE AGREEMENT TO HAVE THE FORCE OF LAW

## Article 1

## Establishment of the South Asian University

1. There is hereby established an institution to be known as the South Asian University (hereinafter referred to as the "University"), which shall be a non-state, non-profit self governing international educational institution with a regional focus for the purposes set forth in this agreement and shall have full academic freedom for the attainment of its objectives.

2. The main campus of the University shall be located in India.

3. The University shall have full legal Personality.

4. The legal capacity of the University shall, *inter alia*, include:

(a) the power to confer degrees, diplomas and certificates;

(b) the capacity to contract;

(c) to sue and be sued in its name;

(d) to acquire, hold and dispose of properties;

(e) to establish campuses and centres in the region; and

(f) to make rules, regulations and bye-laws for the operation of the University.

## Article 2

## Objectives and Functions of the South Asian University

The objectives and functions of the University shall, *inter alia*, include:

1. To create a world class institution of learning that will bring together the brightest and the most dedicated students from all countries of South Asia irrespective of gender, caste, creed, disability, ethnicity or socio-economic background to impart to them liberal and humane education and to give them the analytical tools needed for the pursuit of a profession and inculcate in them the qualities of leadership.

2. To build a South Asian community of learning where every student will be able to develop her/his fullest intellectual potential and to create a South Asian community by strengthening regional consciousness.

3. To impart education towards capacity building of the South Asian nations in the domain of science, technology and other areas of higher learning vital for improving their quality of life.

4. To contribute to the promotion of regional peace and security by bringing together the future leaders of South Asia, and enhancing their understanding of each others' perspectives.

5. To foster in the students sound civic sense and to train them to become useful citizens of democratic societies.

## Article 3

## Funding

The University shall be non-profit public-private partnership, which will seek support from each of the national Governments of member states and from other sources but will be autonomous and accountable to its board of trustees/governors.



**Article 4****The Fiscal Status**

1. The University and its campuses and centres shall be exempted, in the state where it is located, from paying and from collecting all direct and indirect forms of taxes and duties for the establishment and operations of the University.

2. The University shall enjoy treatment in relation to priorities, rates and charges for utilities that are not less favourable than that accorded to state owned enterprises and universities.

3. The University has the right to accept *inter vivos* as well as testamentary gifts, contributions, and donations in cash or in kind for the objectives of the University. All such gifts and donations from any legal or physical person are fully deductible without any limit against the income of such donor or contributor in the respective Founding States.

4. Taxation and social protection of the citizens of the Founding States employed by the University shall be regulated in accordance with the respective national legislation of the respective States. The employees of the University from countries other than the host country will be governed by the income-tax laws of the home countries and will not be taxed as per the laws of the host country.

**Article 5****Governance Structure**

1. The University shall be governed by a Governing Board, composed of two members from each member state, and will be headed by a Chairperson. The Chairperson shall be elected from among the members of the Governing Board.

2. Each member of the Governing Board shall serve office for a fixed term of three years and shall not hold office for more than two consecutive terms. The members shall be selected from amongst the distinguished persons from the region and shall be responsible for the overall policies and directions of the University. The powers and functions of the Chairperson of the Governing Board and the role of the Board shall be decided as per the rules and regulations of the University.

3. The University shall be headed by a President, appointed by the Governing Board. The appointment, tenure, powers and functions shall be decided as per the rules and regulations of the University.

4. The President shall also be the Chief Executive Officer (CEO) and an *ex officio* member of the Governing Board. The President as the CEO of the University, will report to the Board and hold office at the pleasure of the Board. He will be responsible for implementing the vision and the foundation statement of the University, ensuring the purpose and objectives of the University, upholding uniformly high academic standards, and fulfilling the policy directives of the Board of the University.

5. The President as the Chief Executive Officer of the University shall act under direction of the Governing Board. The President shall be assisted by an Executive Council. The President shall constitute the Academic Council, different committees and appoint the principal officers of the University as per bye-laws.

**Article 6****Visa and Resident Permit**

The Member States shall provide appropriate visas to the students, faculty and staff for travel in all the SAARC Member States and grant necessary resident permit for students, faculty and administrative staff to work in the University and its different campuses, centres and collaborative educational institutions.

**Article 7**  
**Recognition of the Degrees**

This Agreement shall facilitate the mutual recognition of degrees and certificates awarded by the University in all the SAARC Member States at par with the degrees and certificates issued by their respective national universities/institutions

Sd/-

**T. K. Viswanathan**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.

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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. L] WEDNESDAY, JULY 29, 2009/SRAVANA 7, 1931

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 29<sup>th</sup> July, 2009.

No. : RPB/25-09/Act-9-09/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department  
New Delhi, the 19<sup>th</sup> July, 2009/Pausa 29, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 17<sup>th</sup> January, 2009, is hereby published for general information :-

### THE SCIENCE AND ENGINEERING RESEARCH BOARD ACT, 2008.

(Act No. 9 of 2009)

AN ACT

[17<sup>th</sup> January, 2009]

*to provide for the constitution of a Board for promoting basic research in Science and Engineering and to provide financial assistance to persons engaged in such research, academic institutions, research and development laboratories, industrial concerns and other agencies for such research and for matters connected therewith or incidental thereto..*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

### CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Science and Engineering Research Board Act, 2008. Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,-

(a) "Board" means the Science and Engineering Research Board constituted under sub-section (1) of section 3; Definitions



(b) "Chairperson" means the Chairperson of the Board;

(c) "Fund" means the Fund for Science and Engineering Research constituted under sub-section (1) of section 10;

(d) "member" means a member of the Board and includes the Chairperson;

(e) "Oversight Committee" means the Oversight Committee of Experts constituted under sub-section (1) of section 5;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "Secretary" means the Secretary of the Board appointed under sub-section (1) of section 4.

## CHAPTER II

### SCIENCE AND ENGINEERING RESEARCH BOARD

Constitution  
and  
incorporation  
of Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute, for the purposes of this Act, a Board to be called the Science and Engineering Research Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue and be sued.

(3) The Board shall consist of the following persons, namely:—

- (a) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Chairperson;
- (b) Member-Secretary, Planning Commission, *ex officio*—Member;
- (c) Secretary to the Government of India in the Department of Biotechnology, *ex officio*—Member;
- (d) Secretary to the Government of India in the Department of Scientific and Industrial Research, *ex officio*—Member;
- (e) Secretary to the Government of India in the Ministry of Earth Sciences, *ex officio*—Member;
- (f) Secretary to the Government of India in the Department of Expenditure, Ministry of Finance or his nominee, *ex officio*—Member;
- (g) Secretary to the Government of India in the Department of Health Research, *ex officio*—Member;
- (h) not more than three members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in academic institutions;
- (i) not more than three members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in Government research laboratories;
- (j) not more than four members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in the industry, international projects on science and technology, socio-economic sectors and other Government research laboratories.

(4) The Head Office of the Board shall be at Delhi or in the National Capital Region.

(5) The qualifications and experience, term of office and allowances of the members specified in clauses (h) to (j) of sub-section (3) shall be such as may be prescribed.

(6) The Chairperson shall, in addition to presiding over the meetings of the Board, exercise and discharge such powers and duties, as may be prescribed or delegated to him by the Board.

(7) No act or proceeding of the Board shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board;
- (b) any defect in the appointment of a person acting as a member of the Board;
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

4. (1) The Board may appoint an eminent Scientist not below the rank of Additional Secretary to the Government of India as the Secretary of the Board, in consultation with the Central Government.

Secretary and other officers and employees of Board.

(2) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The qualifications and experience, terms and conditions of service including salary and allowances of the Secretary and other officers and employees of the Board shall be such as may be specified in the regulations made by the Board.

(4) The Board may engage the services of personnel, both from within and outside the country as consultants, visiting scientists on such terms and conditions and remunerations as may be specified in the regulations made by the Board and shall facilitate their operations within the country.

5. (1) Subject to the rules made in this behalf, the Board shall constitute an Oversight Committee of Experts consisting of experts, eminent scientists and academics to advise and assist the Board.

Oversight Committee of Experts.

(2) The Oversight Committee shall consist of the following persons, namely:—

- (i) a scientist of eminence and international repute— Chairperson;
- (ii) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Vice-Chairperson;
- (iii) Presidents of Indian National Science Academy, Indian Academy of Sciences and Indian National Academy of Engineering, *ex officio*—Members;
- (iv) not more than three members to be appointed by the Central Government from amongst distinguished experts in different areas of science and technology; and
- (v) Secretary to the Board, *ex officio*—Member.

6. (1) Subject to the rules made in this behalf, the Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

Committees of Board.

(2) The Board shall have the power to co-opt as members of any committee appointed under sub-section (1), such number of persons who are not members of the Board as it may think fit, and the person so co-opted shall have the right to attend the meetings of the committee, and take part in the proceedings of the committee.

7. (1) The Board shall serve as a premier multi-disciplinary research funding agency for planning, promoting and funding basic research in the emerging areas of science and engineering.

Powers and functions of Board.

(2) The powers and functions of the Board shall, *inter alia*, include—

- (i) serving as a premier multi-disciplinary research agency for planning, promoting and funding of internationally competitive research in emerging areas;
- (ii) considering and taking decisions on the recommendations and suggestions made by the Oversight Committee;

(iii) identifying major inter-disciplinary research areas, and individuals, groups or institutions and funding them for undertaking research;

(iv) evolving nationally coordinated programmes in various identified areas involving institutions that will have a multiplier effect in promoting research;

(v) assisting in setting up infrastructure and environment for scientific pursuit;

(vi) achieving synergy between academic institutions, research and development laboratories and industry for promoting basic research in science and engineering;

(vii) evolving a management system to speedily provide for funding research, including monitoring and evaluation, by adopting modern management practices;

(viii) evolving participation in international collaborative projects, wherever necessary or desirable; and

(ix) taking over and continuance of the basic research projects and programmes undertaken or funded by the Central Government under the existing Science and Engineering Research Council scheme.

(3) The Board may provide financial assistance for the purposes specified in sub-section (2), in the form of grants and loans to individuals, academic institutions, research and development laboratories, industries and other organisations.

### CHAPTER III

#### APPLICATION FOR SANCTION OF FINANCIAL ASSISTANCE

Application for availing of financial assistance.

8. (1) An application for availing of financial assistance for the purposes specified in sub-section (1) of section 7 shall be made to the Board in such form as may be prescribed.

(2) The Board may, after examining the application and after making such enquiries or seeking such clarifications as it considers necessary, by order in writing, either sanction the financial assistance or refuse the same.

### CHAPTER IV

#### FINANCE, ACCOUNTS AND AUDIT

Grants and loans by Central Government.

9. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary.

Fund for Science and Engineering Research.

10. (1) There shall be constituted a Fund to be called the Fund for Science and Engineering Research and there shall be credited to the Fund—

(a) any grants and loans made to the Board by the Central Government under section 9;

(b) all sums received by the Board including donations from any other source;

(c) recoveries made of the amounts granted from the Fund; and

(d) any income from investment of the amount of the Fund.

(2) The Fund shall be applied for meeting—

(a) expenses on the object and for the purposes authorised by this Act;

(b) salaries, allowances and other expenses of the members, officers and other employees of the Board;

(c) remunerations of the consultants and visiting scientists; and

(d) expenses of the Board in the discharge of its functions under this Act.



11. The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government.

Budget.

12. The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

Annual report.

13. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.

(4) The Board shall furnish to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report.

14. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

Annual report and auditor's report to be laid before Parliament.

## CHAPTER V

## MISCELLANEOUS

15. (1) An industrial concern or an institution receiving financial assistance from the Board shall furnish return to the Board in such form and at such time as may be specified by regulations.

Returns to be furnished to Board.

(2) The Board may authorise an officer to visit any industrial concern or institution referred to in sub-section (1) at any time to verify the accuracy of any return made under this section.

16. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Power of Central Government to issue directions.

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of the policy or not, shall be final.

17. (1) If at any time the Central Government is of the opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and the duties imposed on it by or under the provisions of this Act; or

Power of Central Government to supersede Board.

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board shall, until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed to be disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Delegation.

18. The Board may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Board subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 21) as it may deem necessary.

Protection of action taken in good faith.

19. No prosecution or other legal proceeding shall lie against the Central Government or the Board or any committee appointed by it or any member of the Board or such committee, or any officer or employee of the Government or the Board or any other person authorised by the Central Government or the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power of Central Government to make rules.

20. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications and experience, term of office and other allowances of the members of the Board, under sub-section (5) of section 3;

(b) the powers and duties of the Chairperson under sub-section (6) of section 3;

(c) the constitution of Oversight Committee under section 5;

(d) the constitution of committees under sub-section (1) of section 6;

(e) the form of application under sub-section (1) of section 8;

(f) the form in which, and the time at which the Board shall prepare its budget under section 11 and its annual report under section 12;

(g) the form of annual statement of accounts under sub-section (1) of section 13 and the date before which audited copy of the accounts may be furnished to the Central Government under sub-section (4) of that section;

(h) any other matter which is to be or may be prescribed or in respect of which provision is to be, or may be, made by rules.

21. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act

Power of Board to make regulations.

(2) in particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

(a) the qualifications and experience, terms and conditions of service including salaries and allowances of the Secretary and other officers and employees of the Board under sub-section (2) of section 4;

(b) the form in which and the time at which the returns may be furnished to the Board under sub-section (1) of section 15.

22. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

Sd/-

T. K. Viswanathan

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. L] WEDNESDAY, AUGUST 26, 2009/BHADRA 4, 1931

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 26th August, 2009.

No. RPB/26-09/Act.-10-09/E:- The following Act of Parliament is republished for general information :-

Government of India

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 5th February, 2009, Magha 16, 1930 (Sake)

The Following Act of Parliament has received the assent of the President on the 5th February, 2009; is hereby published for general information :-

THE INFORMATION TECHNOLOGY (AMENDMENT) ACT, 2008

AN ACT

(Act No. 10 of 2009)

(5th February, 2009)

*further to amend the Information Technology Act, 2000.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:-

#### PART I

#### PRELIMINARY

1. (1) This Act may be called the Information Technology (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

## PART II

## AMENDMENTS TO THE INFORMATION TECHNOLOGY ACT, 2000

Substitution of words "digital signature" by words "electronic signature".

2. In the Information Technology Act, 2000 (hereinafter in this Part referred to as the principal Act), for the words "digital signature" occurring in the Chapter, section, sub-section and clause referred to in the Table below, the words "electronic signature" shall be substituted.

TABLE

S.No.	Chapter/section/sub-section/clause
(1)	clauses (d), (g), (h) and (zg) of section 2;
(2)	section 5 and its marginal heading;
(3)	marginal heading of section 6;
(4)	clauses (a), (b), (c) and (e) of section 10 and its marginal heading;
(5)	heading of Chapter V;
(6)	clauses (f) and (g) of section 18;
(7)	sub-section (2) of section 19;
(8)	sub-sections (1) and (2) of section 21 and its marginal heading;
(9)	sub-section (3) of section 25;
(10)	clause (c) of section 30;
(11)	clauses (a) and (d) of sub-section (1) and sub-section (2) of section 34;
(12)	heading of Chapter VII;
(13)	section 35 and its marginal heading;
(14)	section 64;
(15)	section 71;
(16)	sub-section (1) of section 73 and its marginal heading;
(17)	section 74; and
(18)	clauses (d), (n) and (o) of sub-section (2) of section 87.

Amendment of section 1.

3. In section 1 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament."

Amendment of section 2.

4. In section 2 of the principal Act,—

(A) after clause (h), the following clause shall be inserted, namely:—

'(ha) "communication device" means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;';

(B) for clause (j), the following clause shall be substituted, namely:—

'(j) "computer network" means the inter-connection of one or more computers or computer systems or communication device through—

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more inter-connected computers or communication device whether or not the inter-connection is continuously maintained;';

(C) in clause (n), the word "Regulations" shall be omitted;

(D) after clause (n), the following clauses shall be inserted, namely:—

'(na) "cyber cafe" means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;

(nb) "cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;'

(E) after clause (t), the following clauses shall be inserted, namely:—

'(ta) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;'

(F) after clause (u), the following clause shall be inserted, namely:—

'(ua) "Indian Computer Emergency Response Team" means an agency established under sub-section (1) of section 70B;'

(G) in clause (v), for the words "data, text", the words "data, message, text" shall be substituted;

(H) for clause (w), the following clause shall be substituted, namely:—

'(w) "intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;'

5. In Chapter II of the principal Act, for the heading, the heading "DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE" shall be substituted.

Amendment of heading of Chapter II.

6. After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

"3A. (1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

Electronic signature.

(a) is considered reliable; and

(b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

(a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

(b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;

(c) any alteration to the electronic signature made after affixing such signature is detectable;

(d) any alteration to the information made after its authentication by electronic signature is detectable; and

(e) it fulfils such other conditions which may be prescribed.



(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament."

7. After section 6 of the principal Act, the following section shall be inserted, namely:—

'6A. (1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify by notification in the Official Gazette.

*Explanation.*—For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services."

8. After section 7 of the principal Act, the following section shall be inserted, namely:—

"7A. Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form."

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic record, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose."

Insertion of  
new section  
6A.

Delivery of  
services by  
service  
provider.

Insertion of  
new section  
7A.

Audit of  
documents,  
etc.,  
maintained in  
electronic  
form.

Insertion of  
new section  
10A.

Validity of  
contracts  
formed  
through  
electronic  
means.

10. In section 12 of the principal Act, in sub-section (1), for the words "agreed with the addressee", the word "stipulated" shall be substituted. Amendment of section 12.
11. For sections 15 and 16 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 15 and 16.
15. An electronic signature shall be deemed to be a secure electronic signature if— Secure electronic signature.
- (i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and
- (ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.
- Explanation.*—In case of digital signature, the "signature creation data" means the private key of the subscriber.
16. The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices: Security procedures and practices.
- Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.
12. In section 17 of the principal Act,— Amendment of section 17.
- (a) in sub-section (1), for the words "and Assistant Controllers", the words "Assistant Controllers, other officers and employees" shall be substituted; and
- (b) in sub-section (4), for the words "and Assistant Controllers", the words "Assistant Controllers, other officers and employees" shall be substituted.
13. Section 20 of the principal Act shall be omitted. Omission of section 20.
14. In section 29 of the principal Act, in sub-section (1), for the words "any contravention of the provisions of this Act, rules or regulations made thereunder", the words "any contravention of the provisions of this Chapter" shall be substituted. Amendment of section 29.
15. In section 30 of the principal Act,— Amendment of section 30.
- (i) in clause (c), after the word "assured", the word "and" shall be omitted;
- (ii) after clause (c), the following clauses shall be inserted, namely:—
- "(ca) be the repository of all Electronic Signature Certificates issued under this Act;
- (cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificates; and"
16. In section 34 of the principal Act, in sub-section (1), in clause (a), the words "which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Digital Signature Certificate" shall be omitted. Amendment of section 34.
17. In section 35 of the principal Act, in sub-section (4), — Amendment of section 35.
- (a) the first proviso shall be omitted;
- (b) in the second proviso, for the words "Provided further", the word "Provided" shall be substituted.
18. In section 36 of the principal Act, after clause (c), the following clauses shall be inserted, namely:— Amendment of section 36.
- "(ca) the subscriber holds a private key which is capable of creating a digital signature;
- (cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;"

Insertion of  
new section  
40A.

Duties of  
subscriber of  
Electronic  
Signature  
Certificate.

Amendment of  
heading of  
Chapter IX.

Amendment of  
section 43.

19. After section 40 of the principal Act, the following section shall be inserted, namely:—

“40A. In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed.”.

20. In Chapter IX of the principal Act, in the heading, for the words “PENALTIES AND ADJUDICATION”, the words “PENALTIES, COMPENSATION AND ADJUDICATION” shall be substituted.

21. In section 43 of the principal Act,—

(a) in the marginal heading, for the word “Penalty”, the words “Penalty and Compensation” shall be substituted;

(b) in clause (a), after the words “computer network”, the words “or computer resource” shall be inserted;

(c) after clause (h), the following clauses shall be inserted, namely:—

“(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means; .

(j) steal, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;”;

(d) for the portion beginning with the words “he shall be liable to pay damages” and ending with the words “persons so affected” the following shall be substituted, namely:—

“he shall be liable to pay damages by way of compensation to the person so affected”;

(e) in the *Explanation*, after clause (iv), the following clause shall be inserted, namely:—

“(v) “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.”.

Insertion of  
new section  
43A.

Compensation  
for failure to  
protect data.

22. After section 43 of the principal Act, the following section shall be inserted, namely:—

‘43A. Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

*Explanation.*—For the purposes of this section,—

(i) “body corporate” means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) “reasonable security practices and procedures” means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;



(iii) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

23. In section 46 of the principal Act,—

Amendment of section 46.

(a) in sub-section (1), for the words "direction or order made thereunder", the words "direction or order made thereunder which renders him liable to pay penalty or compensation," shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore:

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crore shall vest with the competent court.";

(c) in sub-section (5), after clause (b), the following clause shall be inserted, namely:—

"(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908."

5 of 1908.

24. In Chapter X of the principal Act, in the heading, the word "REGULATIONS" shall be omitted.

Amendment of heading of Chapter X.

25. In section 48 of the principal Act, in sub-section (1), the word "Regulations" shall be omitted.

Amendment of section 48.

26. For sections 49 to 52 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 49 to 52.

"49. (1) The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other Members, as the Central Government may, by notification in the Official Gazette, appoint:

Composition of Cyber Appellate Tribunal.

Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008.

(2) The selection of Chairperson and Members of the Cyber Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act—

(a) the jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Cyber Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;

(c) the Benches of the Cyber Appellate Tribunal shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Cyber Appellate Tribunal, by notification in the Official Gazette, specify;

(d) the Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Cyber Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson of the Cyber Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Cyber Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

50. (1) A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(2) The Members of the Cyber Appellate Tribunal, except the Judicial Member to be appointed under sub-section (3), shall be appointed by the Central Government from amongst persons, having special knowledge of, and professional experience in, information technology, telecommunication, industry, management or consumer affairs:

Provided that a person shall not be appointed as a Member, unless he is, or has been, in the service of the Central Government or a State Government, and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one year or Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.

(3) The Judicial Members of the Cyber Appellate Tribunal shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than one year or Grade I post of that Service for a period of not less than five years.

51. (1) The Chairperson or Member of the Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(2) Before appointing any person as the Chairperson or Member of the Cyber Appellate Tribunal, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

(3) An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.

52. The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chairperson or a Member of the Cyber Appellate Tribunal shall be such as may be prescribed.

52A. The Chairperson of the Cyber Appellate Tribunal shall have powers of general superintendence and directions in the conduct of the affairs of that Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.

Qualifications  
for appoint-  
ment as  
Chairperson  
and Members  
of Cyber  
Appellate  
Tribunal:

Term of  
office,  
conditions of  
service, etc.,  
of Chairperson  
and Members.

Salary,  
allowances and  
other terms  
and conditions  
of service of  
Chairperson  
and Members.

Powers of  
superintendence,  
direction, etc.

52B. Where Benches are constituted, the Chairperson of the Cyber Appellate Tribunal may, by order, distribute the business of that Tribunal amongst the Benches and also the matters to be dealt with by each Bench.

Distribution of business among Benches.

52C. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or *suo motu* without such notice, the Chairperson of the Cyber Appellate Tribunal may transfer any case pending before one Bench, for disposal to any other Bench.

Power of Chairperson to transfer cases.

52D. If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Cyber Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it."

Decision by majority.

27. In section 53 of the principal Act, for the words "Presiding Officer", the words "Chairperson or Member, as the case may be," shall be substituted.

Amendment of section 53.

28. In section 54 of the principal Act, for the words "Presiding Officer" wherever they occur, the words "Chairperson or the Member" shall be substituted.

Amendment of section 54.

29. In section 55 of the principal Act, for the words "Presiding Officer", the words "Chairperson or the Member" shall be substituted.

Amendment of section 55.

30. In section 56 of the principal Act, for the words "Presiding Officer", the word "Chairperson" shall be substituted.

Amendment of section 56.

31. In section 64 of the principal Act,—

Amendment of section 64.

(i) for the words "penalty imposed", the words "penalty imposed or compensation awarded" shall be substituted;

(ii) in the marginal heading, for the word "penalty", the words "penalty or compensation" shall be substituted.

32. For sections 66 and 67 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 66 and 67.

'66. If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Computer related offences.

*Explanation.*—For the purposes of this section,—

(a) the word "dishonestly" shall have the meaning assigned to it in section 24 of the Indian Penal Code;

45 of 1860.

(b) the word "fraudulently" shall have the meaning assigned to it in section 25 of the Indian Penal Code.

45 of 1860.

66A. Any person who sends, by means of a computer resource or a communication device,—

Punishment for sending offensive messages through communication service, etc.

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device; or

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,



shall be punishable with imprisonment for a term which may extend to three years and with fine.

*Explanation.*— For the purposes of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

Punishment  
for  
dishonestly  
receiving  
stolen  
computer  
resource or  
communication  
device.

66B. Whoever dishonestly received or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

Punishment  
for identity  
theft.

66C. Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

Punishment  
for cheating  
by  
personation  
by using  
computer  
resource.

66D. Whoever, by means for any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

Punishment  
for violation  
of privacy.

66E. Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

*Explanation.*— For the purposes of this section—

(a) “transmit” means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) “capture”, with respect to an image, means to videotape, photograph, film or record by any means;

(c) “private area” means the naked or undergarment clad genitals, public area, buttocks or female breast;

(d) “publishes” means reproduction in the printed or electronic form and making it available for public;

(e) “under circumstances violating privacy” means circumstances in which a person can have a reasonable expectation that—

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

Punishment  
for cyber  
terrorism.

66F. (1) Whoever,—

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by—

(i) denying or cause the denial of access to any person authorised to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant,

and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70; or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise,

commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

67. Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

Punishment for publishing or transmitting obscene material in electronic form.

67A. Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.

67B. Whoever,—

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or

(d) facilitates abusing children online; or

(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for *bona fide* heritage or religious purposes.

*Explanation.*— For the purposes of this section, “children” means a person who has not completed the age of 18 years.

Preservation  
and retention  
of information  
by  
intermediaries.

67C. (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

Amendment of  
section 68.

33. In section 68 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both.”

Substitution of  
new sections  
for section 69.

34. For section 69 of the principal Act, the following sections shall be substituted, namely:—

Power to  
issue  
directions for  
interception  
or monitoring  
or decryption  
of any  
information  
through any  
computer  
resource.

‘69. (1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to—

(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.



(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

69A. (1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

Power to issue directions for blocking for public access of any information through any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine.

69B. (1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.

(2) The intermediary or any person in-charge or the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

*Explanation.*—For the purposes of this section,—

(i) “computer contaminant” shall have the meaning assigned to it in section 43;

(ii) “traffic data” means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.’

35. In section 70 of the principal Act,—

Amendment of section 70.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

*Explanation.*—For the purposes of this section, “Critical Information Infrastructure” means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.’;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Central Government shall prescribe the information security practices and procedures for such protected system.”

Insertion of  
new sections  
70A and 70B.

36. After section 70 of the principal Act, the following sections shall be inserted, namely:—

National nodal  
agency.

“70A. (1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

Indian  
Computer  
Emergency  
Response  
Team to  
serve as  
national  
agency for  
incident  
response.

70B. (1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director-General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director-General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,—

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and whitepapers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).”

37. After section 72 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 72A.

"72A. Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both."

Punishment for disclosure of information in breach of lawful contract.

38. For section 77 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 77.

"77. No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

Compensation, penalties or confiscation not to interfere with other punishment.

77A. A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Compounding of offences.

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman;

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 shall apply.

77B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.

Offences with three years imprisonment to be bailable.

39. In section 78 of the principal Act, for the words "Deputy Superintendent of Police" the word "Inspector" shall be substituted.

Amendment of section 78.

40. For Chapter XII of the principal Act, the following Chapters shall be substituted, namely:—

Substitution of new Chapters for Chapter XII.

## 'CHAPTER XII

### INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES

79. (1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

Exemption from liability of intermediary in certain cases.

(2) The provisions of sub-section (1) shall apply if—

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or



(b) the intermediary does not—

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if—

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

*Explanation.*—For the purposes of this section, the expression “third party information” means any information dealt with by an intermediary in his capacity as an intermediary.

## CHAPTER XIII

### EXAMINER OF ELECTRONIC EVIDENCE

Central Government to notify Examiner of Electronic Evidence.

79A. The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

*Explanation.*—For the purposes of this section, “electronic form evidence” means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.

Amendment of section 80.

41. In section 80 of the principal Act, in sub-section (1), for the words “Deputy Superintendent of Police”, the word “Inspector” shall be substituted.

Amendment of section 81.

42. In section 81 of the principal Act, the following proviso shall be inserted at the end, namely:—

“Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 or the Patents Act, 1970.”

14 of 1957.  
39 of 1970.

Amendment of section 82.

43. In section 82 of the principal Act,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Chairperson, Members, officers and employees to be public servants.”;

(b) for the words “Presiding Officer”, the words “Chairperson, Members” shall be substituted.

Amendment of section 84.

44. In section 84 of the principal Act, for the words “Presiding Officer”, the words “Chairperson, Members” shall be substituted.

Insertion of new sections 84A, 84B and 84C.

45. After section 84 of the principal Act, the following sections shall be inserted, namely:—

"84A. The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption. Modes or methods for encryption.

84B. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act. Punishment for abetment of offences:

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

84C. Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both." Punishment for attempt to commit offences.

46. In section 87 of the principal Act,—

Amendment of section 87.

(A) in sub-section (2),—

(i) for clause (a), the following clauses shall be substituted, namely:—

“(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;”;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;”;

(iii) for clause (e), the following clauses shall be substituted, namely:—

“(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;”;

(iv) in clause (f), for the words “and Assistant Controllers”, the words “, Assistant Controllers, other officers and employees” shall be substituted;

(v) clause (g) shall be omitted;

(vi) after clause (m), the following clause shall be inserted, namely:—

“(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35;”;

(vii) after clause (o), the following clauses shall be inserted, namely:—

“(oa) the duties of subscribers under section 40A;

(ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;”;

(viii) in clause (r), for the words “Presiding Officer”, the words “Chairperson and Members” shall be substituted;

(ix) in clause (s), for the words “Presiding Officer”, the words “Chairperson and Members” shall be substituted;

(x) for clause (w), the following clauses shall be substituted, namely:—

“(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;

(x) the information, duration, manner and form of such information to be retained and preserved under section 67C;

(y) the procedures and safeguards for interception, monitoring, or decryption under sub-section (2) of section 69;

(z) the procedure and safeguards for blocking for access by the public under sub-section (2) of section 69A;

(za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;

(zb) the information security practices and procedures for protected system under section 70;

(zc) manner of performing functions and duties of the agency under sub-section (3) of section 70A;

(zd) the officers and employees under sub-section (2) of section 70B;

(ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of section 70B;

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under sub-section (4) of section 79;

(zh) the modes or methods for encryption under section 84A;";

(B) in sub-section (3),—

(i) for the words, brackets, letter and figures "Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it", the words "Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it" shall be substituted;

(ii) the words "the notification or" wherever they occur, shall be omitted.

Amendment  
of section 90.

47. In section 90 of the principal Act, in sub-section (2), clause (c) shall be omitted.

Omission of  
sections 91,  
92, 93 and 94.

48. Sections 91, 92, 93 and 94 of the principal Act shall be omitted.

Substitution  
of new  
Schedules for  
First Schedule  
and Second  
Schedule.

49. For the First Schedule and the Second Schedule to the principal Act, the following Schedules shall be substituted, namely:—

#### "FIRST SCHEDULE

[See sub-section (4) of section 1]

#### DOCUMENTS OR TRANSACTIONS TO WHICH THE ACT SHALL NOT APPLY

Sl. No.	Description of documents or transactions	
1.	A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881.	26 of 1881.
2.	A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882.	7 of 1882.
3.	A trust as defined in section 3 of the Indian Trusts Act, 1882.	2 of 1882.
4.	A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925, including any other testamentary disposition by whatever name called.	39 of 1925.
5.	Any contract for the sale or conveyance of immovable property or any interest in such property.	



[See sub-section (1) of section 3A]

Sl. No.	Description	Procedure
(1)	(2)	(3)

**50. The Third Schedule and the Fourth Schedule to the principal Act shall be omitted.**

## AMENDMENT OF THE INDIAN PENAL CODE

**51. In the Indian Penal Code—**

## Amendment of Indian Penal Code.

(a) in section 4,—

**Amendment  
of section 4.**

(i) after clause (2), the following clause shall be inserted, namely:—

**“(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.”;**

(ii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

**'Explanation.—In this section—**

(a) the word "offence" includes every act committed outside India which, if committed in India, would be punishable under this Code;

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000.’;

21 of 2000.

(b) in section 40, in clause (2), after the figure "117", the figures and word "118, 119 and 120" shall be inserted: Amendment of section 40.

(c) in section 118, for the words “voluntarily conceals, by any act or illegal omission, the existence of a design”, the words “voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design” shall be substituted;

(d) in section 119, for the words "voluntarily conceals, by any act or illegal omission, the existence of a design", the words "voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design" shall be substituted;

(e) in section 464, for the words “digital signature” wherever they occur, the words “electronic signature” shall be substituted; Amendment of section 464.

## PART IV

## AMENDMENT OF THE INDIAN EVIDENCE ACT, 1872

## 52. In the Indian Evidence Act, 1872,—

1 of 1872.

Amendment  
of Indian  
Evidence Act.Amendment of  
section 3.

(a) in section 3 relating to interpretation clause, in the paragraph appearing at the end, for the words "digital signature" and "Digital Signature Certificate", the words "electronic signature" and "Electronic Signature Certificate" shall respectively be substituted;

Insertion of  
new section  
45A.Opinion of  
Examiner of  
Electronic  
Evidence.

(b) after section 45, the following section shall be inserted, namely:—

"45A. When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000, is a relevant fact.

21 of 2000.

*Explanation.*—For the purposes of this section, an Examiner of Electronic Evidence shall be an expert.”;

Amendment of  
section 47A.

(c) in section 47A,—

(i) for the words "digital signature", the words "electronic signature" shall be substituted;

(ii) for the words "Digital Signature Certificate", the words "Electronic Signature Certificate" shall be substituted;

Amendment of  
section 67A.

(d) in section 67A, for the words "digital signature" wherever they occur, the words "electronic signature" shall be substituted;

Amendment of  
section 85A.

(e) in section 85A, for the words "digital signature" at both the places where they occur, the words "electronic signature" shall be substituted;

Amendment of  
section 85B.

(f) in section 85B, for the words "digital signature" wherever they occur, the words "electronic signature" shall be substituted;

Amendment of  
section 85C.

(g) in section 85C, for the words "Digital Signature Certificate", the words "Electronic Signature Certificate" shall be substituted;

Amendment of  
section 90A.

(h) in section 90A, for the words "digital signature" at both the places where they occur, the words "electronic signature" shall be substituted;

Sd/-

T. K. Viswanathan

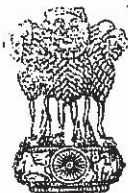
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS

Secretary to Government

Government Central Press, Gandhinagar.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 26th August, 2009.

No. RPB/36-2009/Act.-20-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 6th March, 2009, Phalguna 15, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 6th March, 2009, is hereby published for general information:-

#### THE AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY (AMENDMENT) ACT, 2009

AN ACT

(Act No. 20 of 2009)

[6th March, 2009]

to amend the Agricultural and Processed Food Products Export Development Authority Act, 1985.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:--

1. (1) This Act may be called the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009. Short title and commencement.

(2) It shall be deemed to have come into force on the 13th October, 2008.

2 of 1986. 2. In the Agricultural and Processed Food Products Export Development Authority Act, 1985 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(a) in clause (g), for the words "Scheduled products", the words "Scheduled products or, as the case may be, Special products" shall be substituted;

(b) in clause (i), for the words "the Schedule", the words "the First Schedule" shall be substituted;

(c) after clause (i), the following clause shall be inserted, namely:—

'(j)' "Special product" means any of the agricultural or processed food products included in the Second Schedule.'

Substitution of new section for section 3. 3. For section 3 of the principal Act, the following section shall be substituted, namely :—



Power to amend  
the Schedule.

"3. The Central Government may, having regard to the objects to this Act, and if it considers necessary or expedient so to do, by notification in the Official Gazette, add to, or, as the case may be, omit from, the First Schedule or the Second Schedule any agricultural or processed food product and on such addition, or as the case may be, omission, such product shall be, or shall cease to be, a Scheduled product or Special product as the case may be."

Amendment of  
Section 4.

4. In section 4 of the principal Act, in sub-section (4), in clause (h), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

"(iii) other Scheduled products or Special products industries;"

Insertion of new  
section 10A.

5. After section 10 of the principal Act, the following section shall be inserted, namely:—

Function in  
respect of  
Special  
products, etc.

'10A. Without prejudice to any law for the time being in force, it shall be the duty of the Authority to undertake, by such measures as may be prescribed by the Central Government for registration and protection of the Intellectual Property rights in respect of Special products in India or outside India.

*Explanation.*— For the purpose of this section "Intellectual Property" means any right to intangible property, namely, trade marks, designs, patents, geographical indications or any other similar intangible property, under any law for the time being in force.'

Amendment of  
Section 32.

6. In section 32 of the principal Act, in sub-section (2), after clause (h), the following clause shall be inserted, namely:—

"(ha) the measures for registration and protection of the Intellectual Property rights under section 10A;"

Insertion of new  
section 35.

7. After section 34 of the principal Act, the following section shall be inserted, namely:—

Validation.

"35. All things done, or, omitted to be done, and all actions or measures taken, or, not taken, during the period beginning on or after the 13th day of October, 2008 and ending immediately before the date of commencement of the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, shall, in so far as they are in conformity with the provisions of this Act, as amended by the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, be deemed to have been done, or, omitted to be done, or, taken, or, not taken, under the provisions of this Act, as amended by the Agricultural and Processed Food Products Export Development Authority (Amendment) Act, 2009, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period."

Amendment of  
the Schedule.

8. The Schedule to the principal Act shall be numbered as the First Schedule and after the First Schedule as so numbered, the following Schedule shall be inserted, namely:—

## THE SECOND SCHEDULE

[ See section 2(j) ]

Basmati rice."

Sd/-

V. K. BHASIN,

Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS,

Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. L ] WEDNESDAY, AUGUST 26, 2009/BHADRA 4, 1931

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. : RPB/37-09/Act-21-09/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 6<sup>th</sup> March, 2009/Phalguna 15, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the  
6<sup>th</sup> March, 2009, is hereby published for general information :-

#### THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT)

ACT, 2009

An

ACT

(Act No. 21 of 2009)

[6<sup>th</sup> March, 2009]

*further to amend the Prevention of Money Laundering Act, 1961*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Money-laundering (Amendment) Act, 2009.

Short title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

15 of 2003.

2. In section 2 of the Prevention of Money-laundering Act, 2002 (hereinafter referred to as the principal Act), in sub-section (1),—

Amendment  
of section 2.

(i) after clause (d), the following clause shall be inserted, namely:—

42 of 1999.

“(da) “authorised person” means an authorised person as defined in clause (c) of section 2 of the Foreign Exchange Management Act, 1999;”;

(ii) after clause (j), the following clause shall be inserted, namely:—

‘(ja) “designated business or profession” means carrying on activities for playing games of chance for cash or kind, and includes such activities associated with casino or such other activities as the Central Government may, by notification, so designate, from time to time;’;

(iii) in clause (l), for the words “a non-banking financial company”, the words “an authorised person, a payment system operator and a non-banking financial company” shall be substituted;

(iv) in clause (q), after the words and figures “Reserve Bank of India Act, 1934”, the words “and includes a person carrying on designated business or profession” shall be inserted; 2 of 1934.

(v) after clause (r), the following clauses shall be inserted, namely:—

‘(ra) “offence of cross border implications”, means—

(i) any conduct by a person at a place outside India which constitutes an offence at that place and which would have constituted an offence specified in Part A, Part B or Part C of the Schedule, had it been committed in India and if such person remits the proceeds of such conduct or part thereof to India; or

(ii) any offence specified in Part A, Part B or Part C of the Schedule which has been committed in India and the proceeds of crime, or part thereof have been transferred to a place outside India or any attempt has been made to transfer the proceeds of crime, or part thereof from India to a place outside India.

*Explanation.*—Nothing contained in this clause shall adversely affect any investigation, enquiry, trial or proceeding before any authority in respect of the offences specified in Part A or Part B of the Schedule to the Act before the commencement of the Prevention of Money-laundering (Amendment) Act, 2009.

(rb) “payment system” means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them.

*Explanation.*—For the purposes of this clause, “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

(rc) “payment system operator” means a person who operates a payment system and such person includes his overseas principal.

*Explanation.*—For the purposes of this clause, “overseas principal” means,—

(A) in the case of a person, being an individual, such individual residing outside India, who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;

(B) in the case of a Hindu undivided family, Karta of such Hindu undivided family residing outside India who owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;

(C) in the case of a company, a firm, an association of persons, a body of individuals, an artificial juridical person, whether incorporated or not, such company, firm, association of persons, body of individuals, artificial juridical person incorporated or registered outside India or existing as such and which owns or controls or manages, directly or indirectly, the activities or functions of payment system in India;’.



(vi) in clause (y), for sub-clause (ii), the following sub-clauses shall be substituted, namely:—

“(ii) the offences specified under Part B of the Schedule if the total value involved in such offences is thirty lakh rupees or more; or

(iii) the offences specified under Part C of the Schedule”.

3. In section 5 of the principal Act, in sub-section (1),—

Amendment  
of section 5.

(a) for the words "ninety days", the words "one hundred and fifty days" shall be substituted;

(b) for the proviso, the following provisos shall be substituted, namely:—

"Provided that no such order of attachment shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be:

2 of 1974.

Provided further that, notwithstanding anything contained in clause (b), any property of any person may be attached under this section if the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that if such property involved in money-laundering is not attached immediately under this Chapter, the non-attachment of the property is likely to frustrate any proceeding under this Act."

4. In section 6 of the principal Act,—

Amendment  
of section 6.

(i) in sub-section (1), for the words "one or more Adjudicating Authorities", the words "an Adjudicating Authority" shall be substituted;

(ii) in the proviso to sub-section (8), for the word "sixty-two", the word "sixty-five" shall be substituted.

5. In section 8 of the principal Act, in sub-section (1), for the words and figure "offence under section 3", the words and figure "offence under section 3 or is in possession of proceeds of crime" shall be substituted.

Amendment  
of section 8.

6. In section 12 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment  
of section 12.

"(2)(a) The records referred to in clause (a) of sub-section (1) shall be maintained for a period of ten years from the date of transactions between the clients and the banking company or financial institution or intermediary, as the case may be.

(b) The records referred to in clause (c) of sub-section (1) shall be maintained for a period of ten years from the date of cessation of transactions between the clients and the banking company or financial institution or intermediary, as the case may be."

7. In section 17 of the principal Act, in sub-section (1),—

Amendment  
of section 17.

(i) in the opening portion, for the words "the Director", the words "the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section," shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that no search shall be conducted unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person, authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be." 2 of 1974.

Amendment  
of section 18.

8. In section 18 of the principal Act,—

(i) in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that no search of any person shall be made unless, in relation to the scheduled offence, a report has been forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973, or a complaint has been filed by a person authorised to investigate the offence mentioned in the Schedule, before a Magistrate or court for taking cognizance of the scheduled offence, as the case may be." 2 of 1974.

(ii) in sub-section (9), the proviso shall be omitted.

Amendment  
of section 28.

9. In section 28 of the principal Act, in sub-section (2), clause (a) shall be omitted.

Amendment  
of section 32.

10. In section 32 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the Chief Justice of India shall be consulted before removal of the Chairperson or a Member who was appointed on the recommendation of the Chief Justice of India."

Amendment  
of section 38.

11. In section 38 of the principal Act, for the words "one or more of the other Members", the words "third Member" shall be substituted.

Amendment  
of section 60.

12. In section 60 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) When any property in India is confiscated as a result of execution of a request from a contracting State in accordance with the provisions of this Act, the Central Government may either return such property to the requesting State or compensate that State by disposal of such property on mutually agreed terms that would take into account deduction for reasonable expenses incurred in investigation, prosecution or judicial proceedings leading to the return or disposal of confiscated property."

Amendment  
of Schedule.

13. In the principal Act, in the Schedule,—

(i) in Part A,—

(a) in Paragraph 1, after section 121A and the entry relating thereto, the following sections and the entries shall be inserted, namely:—

Section	Description of offence
"489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes."

(b) in Paragraph 2, for sections 15, 18 and 20 and the entries relating thereto, the following sections and the entries shall be substituted, namely:—

Section	Description of offence
"15	Contravention in relation to poppy straw.
16	Contravention in relation to coca plant and coca leaves.
17	Contravention in relation to prepared opium.
18	Contravention in relation to opium poppy and opium.
19	Embezzlement of opium by cultivator.
20	Contravention in relation to cannabis plant and cannabis.
21	Contravention in relation to manufactured drugs and preparations.";

(c) after Paragraph 2, the following Paragraphs shall be inserted, namely:—

**"PARAGRAPH 3**

**OFFENCES UNDER THE EXPLOSIVE SUBSTANCES ACT, 1908**

Section	Description of offence
3	Causing explosion likely to endanger life or property.
4	Attempt to cause explosion, or for making or keeping explosives with intent to endanger life or property.
5	Making or possessing explosives under suspicious circumstances.

**PARAGRAPH 4**

**OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967**

Section	Description of offence
10 read with section 3	Penalty for being member of an unlawful association, etc.
11 read with sections 3 and 7	Penalty for dealing with funds of an unlawful association.
13 read with section 3	Punishment for unlawful activities.
16 read with section 15	Punishment for terrorist act.
16A	Punishment for making demands of radioactive substances, nuclear devices, etc.
17	Punishment for raising fund for terrorist act.
18	Punishment for conspiracy, etc.
18A	Punishment for organising of terrorist camps.
18B	Punishment for recruiting of any person or persons for terrorist act.
19	Punishment for harbouring, etc.
20	Punishment for being member of terrorist gang or organisation.
21	Punishment for holding proceeds of terrorism.
38	Offence relating to membership of a terrorist organisation.



Section	Description of offence
39	Offence relating to support given to a terrorist organisation.
40	Offence of raising fund for a terrorist organisation.";

(ii) in Part B,—

(a) for Paragraph 1, the following Paragraph shall be substituted, namely:—

**"PARAGRAPH 1**

**OFFENCES UNDER THE INDIAN PENAL CODE**

Section	Description of offence
120B	Criminal conspiracy.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
302	Murder.
304	Punishment for culpable homicide not amounting to murder.
307	Attempt to murder.
308	Attempt to commit culpable homicide.
327	Voluntarily causing hurt to extort property, or to constrain to an illegal act.
329	Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.
364A	Kidnapping for ransom, etc.
384 to 389	Offences relating to extortion.
392 to 402	Offences relating to robbery and dacoity.
411	Dishonestly receiving stolen property.
412	Dishonestly receiving property stolen in the commission of a dacoity.
413	Habitually dealing in stolen property.
414	Assisting in concealment of stolen property.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
419	Punishment for cheating by personation.
420	Cheating and dishonestly inducing delivery of properties.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

Section	Description of offence
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged document or electronic record.
472 and 473	Making or possessing counterfeit seal, etc., with intent to commit forgery.
475 and 476	Counterfeiting device or mark.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.”;

(b) in Paragraph 3, before section 51 read with section 17A and the entry relating thereto, the following section and the entry shall be inserted, namely:—

Section	Description of offence
"51 read with section 9	Hunting of wild animals.”;

(c) in Paragraph 5, after section 10 and the entry relating thereto, the following section and the entry shall be inserted, namely:—

Section	Description of offence
"13	Criminal misconduct by a public servant.”;

(d) after Paragraph 5, the following Paragraphs shall be inserted, namely:—

#### "PARAGRAPH 6

#### OFFENCES UNDER THE EXPLOSIVES ACT, 1884

Section	Description of offence
9-B	Punishment for certain offences.
9-C	Offences by companies.

## PARAGRAPH 7

## OFFENCES UNDER THE ANTIQUITIES AND ARTS TREASURES ACT, 1972

Section	Description of offence
25 read with section 3	Contravention of export trade in antiquities and art treasures.
28	Offences by companies.

## PARAGRAPH 8

## OFFENCES UNDER THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Section	Description of offence
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

## PARAGRAPH 9

## OFFENCES UNDER THE CUSTOMS ACT, 1962

Section	Description of offence
135	Evasion of duty or prohibitions.

## PARAGRAPH 10

## OFFENCES UNDER THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

Section	Description of offence
16	Punishment for enforcement of bonded labour.
18	Punishment for extracting bonded labour under the bonded labour system.
20	Abetment to be an offence.

## PARAGRAPH 11

## OFFENCES UNDER THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986

Section	Description of offence
14	Punishment for employment of any child to work in contravention of the provisions of section 3.

## PARAGRAPH 12

## OFFENCES UNDER THE TRANSPLANTATION OF HUMAN ORGANS ACT, 1994

Section	Description of offence
18	Punishment for removal of human organ without authority.
19	Punishment for commercial dealings in human organs.
20	Punishment for contravention of any other provision of this Act.



## PARAGRAPH 13

## OFFENCES UNDER THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

Section	Description of offence
23	Punishment for cruelty to juvenile or child.
24	Employment of juvenile or child for begging.
25	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.
26	Exploitation of juvenile or child employee.

## PARAGRAPH 14

## OFFENCES UNDER THE EMIGRATION ACT, 1983

Section	Description of offence
24	Offences and penalties.

## PARAGRAPH 15

## OFFENCES UNDER THE PASSPORTS ACT, 1967

Section	Description of offence
12	Offences and penalties.

## PARAGRAPH 16

## OFFENCES UNDER THE FOREIGNERS ACT, 1946

Section	Description of offence
14	Penalty for contravention of provisions of the Act, etc.
14B	Penalty for using forged passport.
14C	Penalty for abetment.

## PARAGRAPH 17

## OFFENCES UNDER THE COPYRIGHT ACT, 1957

Section	Description of offence
63	Offence of infringement of copyright or other rights conferred by this Act.
63A	Enhanced penalty on second and subsequent convictions.
63B	Knowing use of infringing copy of computer programme.
68A	Penalty for contravention of section 52A.

## PARAGRAPH 18

## OFFENCES UNDER THE TRADE MARKS ACT, 1999

Section	Description of offence
103	Penalty for applying false trade marks, trade descriptions, etc.
104	Penalty for selling goods or providing services to which false trademark or false trade description is applied.

Section	Description of offence
105	Enhanced penalty on second or subsequent conviction.
107	Penalty for falsely representing a trade mark as registered.
120	Punishment of abetment in India of acts done out of India.

## PARAGRAPH 19

## OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000

Section	Description of offence
72	Penalty for breach of confidentiality and privacy.
75	Act to apply for offence or contravention committed outside India.

## PARAGRAPH 20

## OFFENCES UNDER THE BIOLOGICAL DIVERSITY ACT, 2002

Section	Description of offence
55 read with section 6	Penalties for contravention of section 6, etc.

## PARAGRAPH 21

## OFFENCES UNDER THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

Section	Description of offence
70 read with section 68	Penalty for applying false denomination, etc.
71 read with section 68	Penalty for selling varieties to which false denomination is applied.
72 read with section 68	Penalty for falsely representing a variety as registered.
73 read with section 68	Penalty for subsequent offence.

## PARAGRAPH 22

## OFFENCES UNDER THE ENVIRONMENT PROTECTION ACT, 1986

Section	Description of offence
15 read with section 7	Penalty for discharging environmental pollutants.
15 read with section 8	Penalty for handling hazardous substance.

## PARAGRAPH 23

## OFFENCES UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

Section	Description of offence
41(2)	Penalty for pollution of stream or well.
43	Penalty for contravention of provisions of section 24.

PARAGRAPH 24

OFFENCES UNDER THE AIR (PREVENTION AND CONTROL OF POLLUTION)  
ACT, 1981

Section	Description of offence
37	Failure to comply with the provisions for operating industrial plant.

PARAGRAPH 25

OFFENCES UNDER THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY  
OF MARITIME NAVIGATION AND FIXED PLATFORMS ON  
CONTINENTAL SHELF ACT, 2002

Section	Description of offence
3	Offences against ship, fixed platform, cargo of a ship, maritime navigational facilities, etc."

(iii) after Part B, the following Part shall be inserted, namely:—

"PART C

An offence which is the offence of cross border implications and is specified in,—

- (1) Part A; or
- (2) Part B without any monetary threshold; or
- (3) the offences against property under Chapter XVII of the Indian Penal Code."

Sd/-

V. K. Bhasin

Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H.D.VYAS**  
Secretary to Government

Government Central Press, Gandhinagar.





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EXTRAORDINARY  
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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. : RPB/38-09/Act-22-09/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 16<sup>th</sup> March, 2009/Phalguna 25, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the  
16<sup>th</sup> March, 2009, is hereby published for general information :-

### THE CENTRAL INDUSTRIAL SECURITY FORCE (AMENDMENT)

ACT, 2009

An

ACT

(Act No. 22 of 2009)

[16<sup>th</sup> March, 2009]

*further to amend the Central Industrial Security Force Act, 1968.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as  
follows:—

1. (1) This Act may be called the Central Industrial Security Force (Amendment) Act, 2009. Short title and  
commence-  
ment.

(2) It shall be deemed to have come into force on the 10th day of January, 2009.

50 of 1968.

2. In the Central Industrial Security Force Act, 1968 (hereinafter referred to as the  
principal Act), in section 2,— Amendment  
of section 2.

(a) after clause (ca), the following clause shall be inserted, namely:—

'(cb) "joint venture" means a venture jointly undertaken by the Central  
Government or State Government with private industrial undertaking;'

(b) after clause (g), the following clause shall be inserted, namely:—

'(ga) "private industrial undertaking" means an industry owned, controlled or managed by a person other than the Central or State Government or any industrial undertaking in public sector;'

Amendment  
of section 3.

3. In section 3 of the principal Act, in sub-section (1), after the words "industrial undertakings owned by that Government", the words ", joint venture or private industrial undertaking" shall be inserted.

Amendment  
of section 4.

4. In section 4 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may appoint a person to be the Director-General of the Force and such other supervisory officers as considered necessary."

Amendment  
of section 7.

5. In section 7 of the principal Act, in sub-section (2),—

(i) for the words "an Inspector-General, a Deputy Inspector-General, a Commandant, a Deputy Commandant or an Assistant Commandant", the words "such other supervisory officers as considered necessary" shall be substituted;

(ii) after the words "industrial undertaking", the words ", joint venture or private industrial undertaking" shall be inserted.

Amendment  
of section 10.

6. In section 10 of the principal Act,—

(i) in clause (c), after the word "safeguard", the words "any joint venture, private industrial undertaking and" shall be inserted;

(ii) in clause (h), after the words "any other duty", the words "within and outside India" shall be inserted.

Amendment  
of section 14.

7. In section 14 of the principal Act,—

(a) in the marginal heading, after the words "public sector", the words ", joint venture or private sector" shall be inserted;

(b) in sub-section (1), after the words "public sector", the words ", joint venture or private sector" shall be inserted;

(c) in the proviso to sub-section (2), for the words "one month's notice", the words "three month's notice" shall be inserted.

Amendment  
of section 15.

8. In section 15 of the principal Act, in sub-section (1), after the word "within", the words "or outside" shall be inserted.

Repeal and  
saving.

9. (1) The Central Industrial Security Force (Amendment) Ordinance, 2009 is hereby repealed. Ord. 2 of 2009.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

T. K. Viswanathan

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H.D.VYAS**  
Secretary to Government



# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. : RPB/39-09/Act-23-09/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 16<sup>th</sup> March, 2009/Phalgun 25, 1930 (Saké)

The following Act of Parliament has received the assent of the President on the  
16<sup>th</sup> March, 2009, is hereby published for general information :-

#### THE HIGH COURT AND SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) AMENDMENT ACT, 2009

An

ACT

(Act No. 23 of 2009)

[16<sup>th</sup> March, 2009]

*further to amend the High Court Judges (Salaries and Conditions of Service) Act,  
1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Salaries and  
Conditions of Service) Amendment Act, 2009.

Short title and  
commencement.

(2) Sections 2, 3, 4, 7, 8, 9, 10 and 13 shall be deemed to have come into force on the 1st  
day of January, 2006 and the remaining provisions of this Act shall be deemed to have come  
into force on the 1st day of September, 2008.

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## CHAPTER II

## AMENDMENT OF THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1954

Amendment of  
section 13A.

2. In the High Court Judges (Salaries and Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), in section 13A,—

28 of 1954.

(a) in sub-section (1), for the words "thirty thousand rupees per mensem", the words "ninety thousand rupees per mensem" shall be substituted;

(b) in sub-section (2), for the words "twenty-six thousand rupees per mensem", the words "eighty thousand rupees per mensem" shall be substituted.

Amendment of  
section 17A.

3. In section 17A of the High Court Judges Act, in sub-section (1),—

(a) the words "plus fifty per cent. of his dearness pay" shall be omitted;

(b) the words "plus thirty per cent. of his dearness pay subject to a minimum of one thousand nine hundred and thirteen rupees per month" shall be omitted.

Insertion of  
new section  
17B.  
Additional  
quantum of  
pension or  
family  
pension.

4. After section 17A of the High Court Judges Act, the following section shall be inserted, namely:—

"17B. Every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the following scale:—

Age of Pensioner or Family Pensioner	Additional quantum of pension or family pension
From eighty years to less than eighty-five years	Twenty per cent. of basic pension or family pension
From eighty-five years to less than ninety years	Thirty per cent. of basic pension or family pension
From ninety years to less than ninety-five years	Forty per cent. of basic pension or family pension
From ninety-five years to less than hundred years	Fifty per cent. of basic pension or family pension
From hundred years or more	Hundred per cent. of basic pension or family pension."

Amendment of  
section 22A.

5. In section 22A of the High Court Judges Act, in sub-section (2), the words "plus thirty per cent. of the dearness pay" shall be omitted.

Amendment of  
section 22C.

6. In the High Court Judges Act, for section 22C, the following section shall be substituted, namely:—

Sumptuary  
allowance.

"22C. The Chief Justice and each of the other Judges of every High Court shall be entitled to a sumptuary allowance of fifteen thousand rupees per month and twelve thousand rupees per month respectively."

Amendment of  
First  
Schedule.

7. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (a), for the letters and figures "Rs. 21,945", the letters and figures "Rs. 43,890" shall be substituted;

(B) in clause (b), for the letters and figures "Rs. 16,725", the letters and figures "Rs. 34,350" shall be substituted;

(C) in the proviso, for the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000", the letters and figures "Rs. 5,40,000" and "Rs. 4,80,000" shall, respectively, be substituted;

(ii) in paragraph 8, for the letters and figures "Rs. 2,70,000", the letters and figures "Rs. 5,40,000" shall be substituted;

(iii) in paragraph 9, for the letters and figures "Rs. 76,785", the letters and figures "Rs. 1,57,670" shall be substituted;

(b) in part II,—

(i) in the proviso to paragraph 2, for the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000", the letters and figures "Rs. 5,40,000" and "Rs. 4,80,000" shall, respectively, be substituted;

(ii) in paragraph 3, for the figures "16,898", "20,280", "23,649", "27,033", "30,420" and "33,799", the figures "34,696", "41,642", "48,559", "55,508", "62,462" and "69,402" shall, respectively, be substituted;

(c) in Part III, in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 7,800", the letters and figures "Rs. 16,020" shall be substituted;

(B) in the proviso, for the letters and figures "Rs. 2,70,000" and "Rs. 2,34,000", the letters and figures "Rs. 5,40,000" and "Rs. 4,80,000" shall, respectively, be substituted.

### CHAPTER III

#### AMENDMENT OF THE SUPREME COURT JUDGES (SALARIES AND CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

8. In the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), in section 12A,—

Amendment of section 12A.

(a) in sub-section (1), for the words "thirty-three thousand rupees per mensem", the words "one lakh rupees per mensem" shall be substituted;

(b) in sub-section (2), for the words "thirty thousand rupees per mensem", the words "ninety thousand rupees per mensem" shall be substituted.

9. In section 16A of the Supreme Court Judges Act, in sub-section (1),—

Amendment of section 16A.

(i) in clause (a), the words "plus fifty per cent. of his dearness pay" and "plus thirty per cent. of his dearness pay" shall be omitted;

(ii) in clause (b), the words "plus thirty per cent. of his dearness pay" shall be omitted.

10. After section 16A of the Supreme Court Judges Act, the following section shall be inserted, namely:—

Insertion of new section 16B.

"16B. Every retired Judge or after his death, the family, as the case may be, shall be entitled to an additional quantum of pension or family pension in accordance with the following scale:—

Additional quantum of pension or family pension.

Age of Pensioner or family Pensioner	Additional quantum of pension or family pension.
From eighty years to less than eighty-five years	Twenty per cent. of basic pension or family pension
From eighty-five years to less than ninety years	Thirty per cent. of basic pension or family pension
From ninety years to less than ninety-five years	Forty per cent. of basic pension or family pension

From ninety-five years to less  
than hundred years

Fifty per cent. of basic pension or  
family pension

From hundred years or more

Hundred per cent. of basic pension  
or family pension."

Amendment of  
section 23.

11. In section 23 of the Supreme Court Judges Act, in sub-section (1A), the words "plus thirty per cent. of the dearness pay" shall be omitted.

Amendment of  
section 23B.

12. In section 23B of the Supreme Court Judges Act, for the words "ten thousand" and "seven thousand five hundred", the words "twenty thousand" and "fifteen thousand" shall, respectively, be substituted.

Amendment of  
Schedule.

13. In the Schedule to the Supreme Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 6,030", "Rs. 1,82,820" and "Rs. 15,360", the letters and figures "Rs. 12,180", "Rs. 3,69,300" and "Rs. 31,030" shall, respectively, be substituted;

(B) in the proviso, for the letters and figures "Rs. 2,97,000", the letters and figures "Rs. 6,00,000" shall be substituted;

(ii) in the proviso to paragraph 3, for the letters and figures "Rs. 2,70,000", the letters and figures "Rs. 5,40,000" shall be substituted;

(b) in Part II, in paragraph 2, in clause (b), for the letters and figures "Rs. 16,898", the letters and figures "Rs. 33,795" shall be substituted;

(c) in Part III, in paragraph 2,—

(A) in clause (b), for the letters and figures "Rs. 7,800", the letters and figures "Rs. 16,020" shall be substituted;

(B) in the proviso, for the letters and figures "Rs. 2,97,000" and "Rs. 2,70,000", the letters and figures "Rs. 6,00,000" and "Rs. 5,40,000" shall, respectively, be substituted.

#### CHAPTER IV

##### TRANSITIONAL PROVISION

Arrears.

14. The difference of salary, pension and family pension payable to a Judge of High Court or to his family, as the case may be, under the High Court Judges Act or a Judge of the Supreme Court or his family, as the case may be, under the Supreme Court Judges Act as amended by this Act and the salary, pension or family pension payable to such Judge or his family, as the case may be, but for this Act shall be paid in two instalments, the first instalment of forty per cent. to be paid during the current financial year 2008-09 and the remaining sixty per cent. to be paid in the financial year 2009-10.

Repeal and  
saving.

15. (1) The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 is hereby repealed.

Ord..1 of 2009.

(2) Notwithstanding such repeal, anything done or any action taken under the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 as amended by the said Ordinance shall be deemed to have been done or taken under the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, as amended by this Act.

28 of 1954.

41 of 1958.



Sd/-

T. K. Viswanathan  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H.D.VYAS**  
Secretary to Government

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Government Central Press, Gandhinagar.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. RPB/41-09/Act-25-09/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 20<sup>th</sup> March, 2009/Phalguna 29, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> March, 2009, is hereby published for general information :-

#### THE CENTRAL UNIVERSITIES ACT, 2009.

An

ACT

(Act No. 25 of 2009)

[20<sup>th</sup> March, 2009]

*to establish and incorporate universities for teaching and research in the various States and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Universities Act, 2009.

(2) It shall be deemed to have come into force on the 15th day of January, 2009.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

Short title and  
commencement.

Definitions.

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Studies" means the Board of Studies of a Department of the University;

(d) "College" means a college maintained by the University;

(e) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(f) "Court" means the Court of the University;

(g) "Department" means a Department of Studies and includes a Centre of Studies;

(h) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, internet, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(i) "employee" means any person appointed by the University and includes teachers and other staff of the University;

(j) "Executive Council" means the Executive Council of the University;

(k) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;

(l) "Institution" means an academic institution, not being a College, maintained by the University;

(m) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;

(n) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(o) "School" means a School of Studies of the University;

(p) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(q) "teachers of the University" means Professors, Associate Professors, Assistant Professors and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances; and

(r) "University" means a University established and incorporated as a University under this Act.

Establishment  
of  
Universities.

3. (1) The Guru Ghasidas Vishwavidyalaya in the State of Chhattisgarh and Doctor Harisingh Gour Vishwavidyalaya in the State of Madhya Pradesh, established under the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973, and Hemvati Nandan Bahuguna Garhwal University in the State of Uttarakhand, established under the Uttar Pradesh State Universities Act, 1973, shall be established as bodies corporate under this Act by the same names of "Guru Ghasidas Vishwavidyalaya", "Doctor Harisingh Gour Vishwavidyalaya" and "Hemvati Nandan Bahuguna Garhwal University", respectively.

Madhya  
Pradesh Act  
22 of 1973.  
President's Act  
10 of 1973.

(2) The headquarters of Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University shall be at Bilaspur, Sagar and Srinagar, respectively.

(3) The jurisdiction of Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, shall extend to the Bilaspur, Raigarh and Surguja districts of the State of Chhattisgarh, the Sagar, Tikamgarh, Chhatarpur, Panna, Chhindwara and Damoh districts of the State of Madhya Pradesh, and the Chamoli, Dehradun, Garhwal, Hardwar, Rudraprayag, Tehri Garhwal and Uttarkashi districts of the State of Uttarakhand, respectively.



(4) There shall be established, the Universities in the various States as bodies corporate, by such names and territorial jurisdiction, as specified in the First Schedule to this Act.

(5) The headquarters of each of the Universities, referred to in sub-section (4), shall be such as may be specified by the Central Government by notification in the Official Gazette.

(6) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council of each University, and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the University.

(7) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

4. On and from the date of commencement of this Act,—

Effect of  
establishment  
of  
Universities.

(a) any reference to Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya or Hemvati Nandan Bahuguna Garhwal University, in any contract or other instrument shall be deemed as a reference to Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya, and Hemvati Nandan Bahuguna Garhwal University, respectively, established under this Act;

(b) all properties, movable and immovable, of or belonging to Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, shall vest in Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya or Hemvati Nandan Bahuguna Garhwal University, as the case may be, established under this Act;

(c) all rights and liabilities of Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, shall be transferred to, and be the rights and liabilities of, Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, respectively, established under this Act;

(d) every person employed by Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, immediately before the commencement of this Act shall hold his office or service in Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, respectively, established under this Act by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the University in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment, to him by the University, of compensation equivalent to three months' remuneration in case of permanent employees and one month's remuneration in the case of other employees:

Provided further that every person employed before the commencement of this Act, pending the execution of a contract under section 33, shall be deemed to have been appointed in accordance with the provisions of a contract consistent with the provisions of this Act and the Statutes:

Provided also that any reference, by whatever form of words, to the Vice-Chancellor and Pro-Vice-Chancellor of Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya or Hemvati Nandan Bahuguna Garhwal University, in any law for the time being in force, or in any instrument or other document, shall be

construed as a reference to the Vice-Chancellor and the Pro-Vice-Chancellor of Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya or Hemvati Nandan Bahuguna Garhwal University, as the case may be, established under this Act;

(e) the Vice-Chancellors of Guru Ghasidas Vishwavidyalaya and Doctor Harisingh Gour Vishwavidyalaya, appointed under the provisions of the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973, and the Vice-Chancellor of Hemvati Nandan Bahuguna Garhwal University, appointed under the provisions of the Uttar Pradesh State Universities Act, 1973, shall be deemed to have been appointed as the Vice-Chancellors under this Act, and shall hold office for a period of three months or till such time the first Vice-Chancellor is appointed under section 44 of the Act, whichever is earlier; and

Madhya Pradesh Act 22 of 1973. President's Act 10 of 1973.

(f) all Colleges, Institutions, Schools or Faculties, and Departments affiliated to, or admitted to the privileges of, or maintained by, Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University shall stand affiliated to, or admitted to the privileges of, or maintained by, Guru Ghasidas Vishwavidyalaya, Doctor Harisingh Gour Vishwavidyalaya and Hemvati Nandan Bahuguna Garhwal University, respectively, established under this Act.

Objects of University.

5. The objects of the University shall be to disseminate and advance knowledge by providing instructional and research facilities in such branches of learning as it may deem fit; to make special provisions for integrated courses in humanities, social sciences, science and technology in its educational programmes; to take appropriate measures for promoting innovations in teaching-learning process and inter-disciplinary studies and research; to educate and train manpower for the development of the country; to establish linkages with industries for the promotion of science and technology; and to pay special attention to the improvement of the social and economic conditions and welfare of the people, their intellectual, academic and cultural development.

Powers of University.

6. (1) The University shall have the following powers, namely:—

(i) to provide for instructions in such branches of learning like natural sciences, social sciences, humanities, engineering, technology and medicine as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on, persons, on the basis of examinations, evaluation or any other method of testing, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extramural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to provide facilities through the distance education system to such persons as it may determine;

(vi) to institute Principalships, Professorships, Associate Professorships, Assistant Professorships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Associate Professorships, Assistant Professorships or other teaching or academic positions;

(vii) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(viii) to appoint persons working in any other University or academic institution, including those located outside the country, as teachers of the University for a specified period;

(ix) to create administrative, ministerial and other posts and to make appointments thereon;

(x) to co-operate or collaborate or associate with any other University or authority or institution of higher learning, including those located outside the country, in such manner and for such purposes as the University may determine;

(xi) to establish such centres and specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(xii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiii) to establish and maintain Colleges, Institutions and Halls;

(xiv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xv) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvi) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants and such other persons who may contribute to the advancement of the objects of the University;

(xvii) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(xviii) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xix) to demand and receive payment of fees and other charges;

(xx) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxi) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxii) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxiii) to make arrangements for promoting the health and general welfare of the employees;

(xxiv) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties, for the purposes of the University;

(xxv) to borrow, with the previous approval of the Central Government, on the security of the property of the University, money for the purposes of the University; and

(xxvi) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

(2) In exercising its powers referred to in sub-section (1), it shall be the endeavour of the University to maintain an all-India character and high standards of teaching and research,



and the University shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:—

(i) admission of students and recruitment of faculty shall be made on all-India basis;

(ii) admissions of students shall be made on merit, either through Common Entrance Tests conducted individually by the University or in combination with other Universities, or on the basis of marks obtained in the qualifying examination in such courses where the intake of students is small;

(iii) inter-University mobility of faculty, with portable pensions and protection of seniority, shall be encouraged;

(iv) semester system, continuous evaluation and choice-based credit system shall be introduced and the University shall enter into agreements with other Universities and academic institutions for credit transfer and joint degree programmes;

(v) innovative courses and programmes of studies shall be introduced with a provision for periodic review and restructuring;

(vi) active participation of students shall be ensured in all academic activities of the University; including evaluation of teachers;

(vii) accreditation shall be obtained from the National Assessment and Accreditation Council or any other accrediting agency at the national level; and

(viii) e-governance shall be introduced with an effective management information system.

University  
open to all  
castes, creed,  
race or class.

7. The University shall be open to persons of either sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens:

Provided further that no such special provision shall be made on the ground of domicile.

Visitor of  
University.

8. (1) The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions, as he considers necessary, in respect of any of the matters dealt with in the report and the University shall abide by such action and be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons, as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any College or Institution maintained by the University; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3), give notice of his intention to cause an inspection or inquiry to be made, to the University, and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Executive Council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(9) Where, the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions, as he may think fit, and the Executive Council shall comply with such directions.

(10) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(11) The Visitor shall have such other powers as may be prescribed by the Statutes.

9. The following shall be the officers of the University, namely:—

Officers of  
University.

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Deans of Schools;
- (5) the Registrar;
- (6) the Finance Officer;
- (7) the Controller of Examinations;
- (8) the Librarian; and

(9) such other officers as may be declared by the Statutes to be the officers of the University.

10. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. Chancellor.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.



Vice-  
Chancellor.

11. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter.

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final.

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

Pro-Vice-  
Chancellor.

12. The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Deans of  
Schools.

13. Every Dean of School shall be appointed in such manner, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Registrar.

14. (1) The Registrar shall be appointed in such manner, and on such terms and conditions of service, as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Finance  
Officer.

15. The Finance Officer shall be appointed in such manner, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Controller of  
Examinations.

16. The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Librarian.

17. The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Other  
officers.

18. The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes.

Authorities of  
University.

19. The following shall be the authorities of the University, namely:—

(1) the Court;

(2) the Executive Council;



(3) the Academic Council;

(4) the Board of Studies;

(5) the Finance Committee; and

(6) such other authorities as may be declared by the Statutes to be the authorities of the University.

20. (1) The constitution of the Court and the term of office of its members shall be prescribed by the Statutes: The Court.

Provided that such number of members, as may be prescribed by the Statutes, shall be elected from among the teachers, employees and students of the University.

(2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University, and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

21. (1) The Executive Council shall be the principal executive body of the University.

Executive Council.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.

22. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University.

Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that such number of members as may be prescribed by the Statutes shall be from among the elected members of the Court.

23. The constitution, powers and functions of the Boards of Studies shall be prescribed by the Statutes.

Boards of Studies.

24. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Finance Committee.

25. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Other authorities of University.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Powers to make Statutes.

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters

relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(e) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(f) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a College or an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the management of Colleges and Institutions established by the University;

(o) the delegation of powers vested in the authorities or officers of the University;

(p) the maintenance of discipline among the employees and students; and

(q) all other matters which by this Act are to be, or may be, provided for by the Statutes.

Statutes, how  
to be made.

27. (1) The first Statutes are those set out in the Second Schedule to this Act.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1) during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in this section, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

28. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to  
make  
Ordinances.

- (a) the admission of students to the University and their enrolment as such;
- (b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;
- (c) the medium of instruction and examination;
- (d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas of the University;
- (f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;
- (g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;
- (h) the conditions of residence of the students of the University;
- (i) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them;
- (j) the establishment of Centres of Studies, Boards of Studies, Specialised Laboratories and other Committees;
- (k) the manner of co-operation and collaboration with other Universities, institutions and other agencies including learned bodies or associations;
- (l) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (m) the institution of fellowships, scholarships, studentships, medals and prizes;
- (n) the setting up of a machinery for redressal of grievances of employees and students; and
- (o) all other matters which by this Act, or, the Statutes, are to be, or, may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Executive Council and the Ordinances so made may also be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes:

Provided that in the case of Guru Ghasidas Vishwavidyalaya and Doctor Harisingh Gour Vishwavidyalaya, and Hemvati Nandan Bahuguna Garhwal University, till such time as the first Ordinances are not so made, in respect of the matters that are to be provided for by the Ordinances under this Act and the Statutes, the relevant provisions of the Statutes and the Ordinances made immediately before the commencement of this Act under the provisions of the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973, and the Uttar Pradesh State Universities Act, 1973, respectively, shall be applicable in so far as they are not inconsistent with the provisions of this Act and the Statutes.



**Regulations.**

29. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances, for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

**Annual report.**

30. (1) The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(2) The Court shall submit the annual report to the Visitor along with its comments, if any.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

**Annual accounts.**

31. (1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report, as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

**Returns and information.**

32. The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require, within such period as may be specified by the Central Government.

**Conditions of service of employees, etc.**

33. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

34. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 33 shall, as far as may be, apply to a reference made under this sub-section.

35. Every employee or student of the University or of a College or Institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University, or, the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Right to appeal.

36. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Provident and pension funds.

19 of 1925. (2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

37. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Disputes as to constitution of authorities and bodies.

38. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

39. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of authorities or bodies not invalidated by vacancies.

40. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

1 of 1872.

41. Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence.

Mode of proof of University record.

42. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not

Power to remove difficulties.

inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Statutes,  
Ordinances  
and  
Regulations to  
be published  
in the Official  
Gazette and to  
be laid before  
Parliament.

43. (1) Every Statute, Ordinances or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinances or Regulation made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinances or Regulation or both Houses agree that the Statute, Ordinances or Regulation should not be made, the Statute, Ordinances or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinances or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statutes, Ordinances or Regulations so as to prejudicially affect the interests of any person to whom such Statutes, Ordinances or Regulations may be applicable.

Transitional  
provisions.

44. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor in such manner and on such conditions as may be deemed fit and each of the said officers shall hold office for such term, not exceeding five years, as may be specified by the Visitor;

(b) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years; and

(d) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment by the Visitor or nomination by the Central Government, as the case may be, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.



45. (1) In the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973, in the Second Schedule, the entries relating to Guru Ghasidas Vishwavidyalaya and Doctor Harisingh Gour Vishwavidyalaya shall be omitted.

Amendment  
of Madhya  
Pradesh Act  
22 of 1973.

(2) Notwithstanding such omission,—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Madhya Pradesh Vishwavidyalaya Adhiniyam, 1973, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

(b) all proceedings of Selection Committees for the appointment or promotion of teachers that took place before the commencement of this Act and all actions of the Executive Council in respect of the recommendations of such Selection Committees where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take, with the approval of the Visitor, a decision to the contrary.

46. (1) In the Uttar Pradesh State Universities Act, 1973,—

(a) in sub-section (1) of section 4, the words, figures and brackets “and a University of Garhwal which shall from April 25, 1989 be called the Hemvati Nandan Bahuguna Garhwal University at Srinagar (District Garhwal)” shall be omitted;

Amendment  
of President's  
Act 10 of  
1973.

(b) in clause (d) of sub-section (1) of section 20, the words “the Hemvati Nandan Bahuguna Garhwal University” shall be omitted;

(c) in sub-section (2) of section 52, for the words “the Universities of Kumaun and Garhwal” the words “the University of Kumaun” shall be substituted;

(d) section 72B shall be omitted;

(e) in the Schedule, Serial No. 8 and the entries relating thereto shall be omitted.

(2) Notwithstanding the omission and substitution referred to in sub-section (1),—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Uttar Pradesh State Universities Act, 1973, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

(b) all proceedings of Selection Committees for the appointment or promotion of teachers that took place before the commencement of this Act and all actions of the Executive Council in respect of the recommendations of such Selection Committees where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take, with the approval of the Visitor, a decision to the contrary.

Madhya  
Pradesh Act  
22 of 1973.

President's  
Act 10 of  
1973.

Repeal and  
savings.

47. (1) The Central Universities Ordinance, 2009 is hereby repealed.

Ord.3 of  
2009.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act, and—

(a) all appointments made, orders issued, degrees and other academic distinctions conferred, diplomas and certificates awarded, privileges granted, or other things done under the Central Universities Ordinance, 2009, shall be deemed to have been respectively made, issued, conferred, awarded, granted or done under the corresponding provisions of this Act and, except as otherwise provided by, or under this Act or the Statutes, continue in force unless and until they are superseded by any order made under this Act or the Statutes; and

Ord.3 of  
2009.

(b) all proceedings of Selection Committees for the appointment or promotion of teachers that took place before the commencement of this Act and all actions of the Executive Council in respect of the recommendations of such Selection Committees where no orders of appointment on the basis thereof were passed before the commencement of this Act shall, notwithstanding that the procedure for selection has been modified by this Act, be deemed to have been valid but further proceeding in connection with such pending selections shall be taken in accordance with the provisions of this Act and be continued from the stage where they stood immediately before such commencement, except if the concerned authorities take, with the approval of the Visitor, a decision to the contrary.

## THE FIRST SCHEDULE

[See section 3(4)]

Serial No.	Name of the State	Name of the University	Territorial jurisdiction
1.	Bihar	Central University of Bihar	Whole of the State of Bihar
2.	Gujarat	Central University of Gujarat	Whole of the State of Gujarat
3.	Haryana	Central University of Haryana	Whole of the State of Haryana
4.	Himachal Pradesh	Central University of Himachal Pradesh	Whole of the State of Himachal Pradesh
5.	Jammu and Kashmir	Central University of Jammu and Kashmir	Whole of the State of Jammu and Kashmir
6.	Jharkhand	Central University of Jharkhand	Whole of the State of Jharkhand
7.	Karnataka	Central University of Karnataka	Whole of the State of Karnataka
8.	Kerala	Central University of Kerala	Whole of the State of Kerala
9.	Orissa	Central University of Orissa	Whole of the State of Orissa
10.	Punjab	Central University of Punjab	Whole of the State of Punjab
11.	Rajasthan	Central University of Rajasthan	Whole of the State of Rajasthan
12.	Tamil Nadu	Central University of Tamil Nadu	Whole of the State of Tamil Nadu



## THE SECOND SCHEDULE

(See section 27)

## The Statutes of the University

Chancellor.

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of five years and shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

Vice-Chancellor.

2. (1) The Vice-Chancellor shall be appointed by the Visitor from out of a panel recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve any of the persons included in the panel, he may call for an extended fresh panel.

(2) The Committee referred to in clause (1) shall consist of five persons, out of whom three shall be nominated by the Executive Council and two by the Visitor, and one of the nominees of the Visitor shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or a College or an Institution maintained by the University or a member of any authority of the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) Notwithstanding anything contained in clause (4), the Visitor may, at any time after the Vice-Chancellor has entered upon his office, by order in writing, remove the Vice-Chancellor from office on grounds of incapacity, misconduct or violation of statutory provisions:

Provided that no such order shall be made by the Visitor unless the Vice-Chancellor has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided further that the Visitor shall consult the Chancellor also before making such order:

Provided also that the Visitor may, at any time before making such order, place the Vice-Chancellor under suspension, pending enquiry.

(6) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) The Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(ii) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University, or a College or an Institution maintained by the University, or of any other University or any College or Institution maintained by or admitted to the privileges of, such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(iii) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(iv) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(v) In addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

(7) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill-health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or the existing Vice-Chancellor resumes the duties of his office, as the case may be.

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the Convocations held for conferring degrees and at meetings of the Court.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

Powers and duties of Vice-Chancellor.

(4) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(5) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic Council and the Finance Committee.

Pro-Vice-  
Chancellor.

4. (1) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of the Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of the Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that the Pro-Vice-Chancellor whose term of office has expired shall be eligible for re-appointment:

Provided further that, in any case, the Pro-Vice-Chancellor shall retire on attaining the age of seventy years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (7) of Statute 2, continue in office, notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until the Vice-Chancellor resumes office or a new Vice-Chancellor assumes office, as the case may be.

(3) The emoluments and other terms and conditions of service of the Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(4) The Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Deans of  
Schools.

5. (1) Every Dean of School shall be appointed by the Vice-Chancellor from amongst the Professors in the School by rotation in the order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a School, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Associate Professors in the School by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-five years shall cease to hold office as such.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Associate Professor, as the case may be, in the School.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.



6. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University. Registrar.

(2) He shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty-two years.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and other academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council and the Academic Council, but shall not be deemed to be a member of either of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council and of any Committees appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic Council;

(e) to supply to the Visitor, copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time by the Executive Council or the Vice-Chancellor.

Finance Officer.

7. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Finance Officer shall retire on attaining the age of sixty-two years.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Departments, Centres and Specialised Laboratories;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Department, Centre, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

Controller of Examinations.

8. (1) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years.

(4) When the office of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

9. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. Librarian.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

10. (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year. Meetings of Court.

(2) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(4) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, the Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(5) Eleven members of the Court shall form a quorum for a meeting of the Court.

11. Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council. Quorum for meeting of Executive Council.

12. (1) The Executive Council shall have the power of management and administration of the revenues and property of the University and the conduct of all administrative affairs of the University not otherwise provided for. Powers and functions of Executive Council.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and other academic posts including Chairs, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Associate Professors, Assistant Professors and other academic staff;

Provided that no action shall be taken by the Executive Council in respect of the number and qualifications of teachers and other academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff including Chairs, as may be necessary, on the recommendation of



the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to promote inter-facial research by making joint appointments of teaching staff in different Schools, Departments and Centres;

(iv) to create administrative, ministerial and other necessary posts and to define their duties and conditions of their service and to make appointments thereto in the manner prescribed by the Ordinances;

(v) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(vi) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vii) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(viii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendation of the Finance Committee;

(ix) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(x) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(xi) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xii) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xiii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees, and students of the University who may, for any reason, feel aggrieved;

(xiv) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(xv) to select a common seal for the University and provide for the use of such seal;

(xvi) to make such special arrangements as may be necessary for the residence of women students;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes;

(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments;

(xix) to enter into partnership with industry and non-governmental agencies for the advancement of knowledge and establish a corpus of funds out of the profits of such partnership; and

(xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes.

13. Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

Quorum of meeting of Academic Council.

14. Subject to the provisions of this Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

Powers and functions of Academic Council.

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-ordination of teaching among the Colleges and the Institutions, evaluation of research and improvement of academic standards;

(b) to bring about and promote inter-School co-ordination and to establish or appoint such committees or boards as may be deemed necessary for the purpose;

(c) to consider matters of general academic interest either on its own initiative, or on a reference by a School or the Executive Council, and to take appropriate action thereon; and

(d) to frame such Regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

15. (1) The University shall have such Schools of Studies as may be specified in the Statutes.

Schools of Studies and Departments.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council for a period of three years.

(3) The composition, powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Every School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) teachers of the Department;

(ii) persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

16. (1) Each Department shall have a Board of Studies.

Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council, the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(a) courses of studies and appointment of examiners for courses, but excluding research degrees;

(b) appointment of supervisors for research; and

(c) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of this Act, be performed by the Department.

Finance  
Committee.

17. (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) one person to be nominated by the Court;

(iv) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(v) three persons to be nominated by the Visitor.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

Selection  
Committees.

18. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Associate Professor, Assistant Professor, Registrar, Finance Officer, Controller of Examinations, Librarian and Principals of Colleges and Institutions maintained by the University.



(2) The Selection Committee for appointment to the posts specified in Column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in Column 2 of the said Table:

TABLE

1	2
Professor	<p>(i) The Dean of the School.</p> <p>(ii) The Head of the Department, if he is a Professor.</p> <p>(iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.</p>
Associate Professor/ Assistant Professor	<p>(i) The Head of the Department.</p> <p>(ii) One Professor nominated by the Vice-Chancellor.</p> <p>(iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Associate Professor or Assistant Professor will be concerned.</p>
Registrar/Finance Officer/ Controller of Examinations	<p>(i) Two members of the Executive Council nominated by it.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Librarian	<p>(i) Two persons not in the service of the University who have special knowledge of the subject of the Library Science or Library Administration nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Principal of College or Institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

Note 1. — Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

Note 2. — The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence the Pro-Vice-Chancellor, shall convene and preside at the meeting of the Selection Committee.

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(5) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(6) Appointments to temporary posts shall be made in the manner indicated below:—

(i) If the temporary vacancy is for duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months.

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(iii) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment.

19. (1) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post:

Provided that the Executive Council may also create supernumerary posts for a specified period for appointment of such persons:

Provided further that the number of supernumerary posts so created should not exceed five per cent. of the total posts in the University.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

20. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

Appointment for fixed tenure.

21. (1) An authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

Committees.

(2) A Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

22. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of teachers, etc.

(2) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(3) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(4) A copy of every contract referred to in clause (3) shall be deposited with the Registrar.

23. (1) All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of other employees.

(2) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

24. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

Seniority list.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

25. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Removal of employees of University.

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.



(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary  
degrees.

26. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of  
degrees, etc.

27. The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw a degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice as to why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

Maintenance  
of discipline  
amongst  
students of  
University.

28. (1) All powers relating to the maintenance of discipline and disciplinary action in relation to the students of the University shall vest in the Vice-Chancellor.

(2) There shall be a Proctor of the University to assist the Vice-Chancellor in the exercise of the powers referred to in clause (1), who shall be appointed by the Executive

Council from amongst the Professors and Associate Professors in the manner prescribed by the Ordinances.

(3) The Vice-Chancellor may delegate all or any of the powers referred to in clause (1), as he deems proper, to the Proctor and to such other officers as he may specify in this behalf.

(4) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of such powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department or a School of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be withheld or cancelled.

(5) The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching Departments.

(6) Without prejudice to the powers of the Vice-Chancellor and the Principals and other persons specified in clause (5), detailed rules of discipline and proper conduct shall be made by the University and the Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the purposes stated therein.

(7) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

29. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Convocations.

30. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Acting  
Chairman of  
meetings.

31. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Resignation.

32. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities, or for being appointed as, and for being, an officer, of the University if—

Disqualification.

(i) he is of unsound mind; or

(ii) he is an undischarged insolvent; or

(iii) he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence  
condition for  
membership  
and office.

33. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of  
authorities by  
virtue of  
membership of  
other bodies.

34. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni  
Association.

35. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students  
Council.

36. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) twenty students to be elected by the students as their representatives:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council, if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least twice in every academic year and the first meeting of the Council be held in the beginning of the academic session.

Ordinances,  
how to be  
made.

37. (1) The first Ordinances made under sub-section (2) of section 28 may be amended, repealed or added to at any time by the Executive Council in the manner specified in the following sub-clauses.

(2) No Ordinances in respect of the matters enumerated in sub-section (1) of section 28 of this Act shall be made by the Executive Council unless a draft of such Ordinances has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinances proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinances proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic



Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinances made by the Executive Council shall come into effect immediately.

(6) Every Ordinances made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption.

(7) The Visitor shall have the power to direct the University to suspend the operation of any Ordinances.

(8) The Visitor shall inform the Executive Council about his objection to the Ordinances referred to in clause (7) and may, after receiving the comments of the University, either withdraw the order suspending the Ordinances or disallow the Ordinances, and his decision shall be final.

38. (1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances for the following matters, namely:— Regulations.

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by this Act, the Statutes or the Ordinances to be prescribed by Regulations; and

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by this Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

39. Subject to the provisions of this Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers. Delegation of Powers.

Sd/-

V. K. Bhasin

Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS

Secretary to Government



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. RPB/42-09/Act-26-09/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 20<sup>th</sup> March, 2009/Phalguna 29, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> March, 2009, is hereby published for general information :-

### THE FINANCE ACT, 2009

An

ACT

(Act No. 26 of 2009)

[20<sup>th</sup> March, 2009]

*to continue the existing rates of income-tax for the financial year 2009-10*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Finance Act, 2009.

(2) Section 2 shall come into force on the 1st day of April, 2009.

18 of 2008.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 2008, shall apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2009, as they apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2008, with the following modifications, namely:—

(a) in section 2,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2009, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.”;

Short title and  
commence-  
ment.  
Income-tax.

(ii) in sub-section (2),—

(A) in the opening portion and in clause (a) and sub-clause (ii) of clause (b), for the words “one lakh ten thousand rupees”, the words “one lakh fifty thousand rupees” shall be substituted;

(B) in the first proviso,—

(I) for the words “one lakh ten thousand rupees”, the words “one lakh fifty thousand rupees” shall be substituted;

(II) for the words “one lakh forty-five thousand rupees”, the words “one lakh eighty thousand rupees” shall be substituted;

(C) in the second proviso,—

(I) for the words “one lakh ten thousand rupees”, the words “one lakh fifty thousand rupees” shall be substituted;

(II) for the words “one lakh ninety-five thousand rupees”, the words “two lakh twenty-five thousand rupees” shall be substituted;

(D) in the third proviso, the words, figures and letter “, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act,” shall be omitted;

(iii) in sub-section (3), in the opening portion, for the words “the Income-tax Act”, the words, figures and brackets “the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act)” shall be substituted; 43 of 1961.

(iv) in sub-section (13), in clause (a), for the figures “2008”, the figures “2009” shall be substituted;

(b) in the First Schedule,—

(i) for Part I, the following Part shall be substituted, namely:—

#### “PART I

#### INCOME-TAX

#### Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies:—

#### Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,50,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,50,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 15,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 55,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |



(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 1,80,000                          | Nil;  |
| (2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,80,000;                        |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 12,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 52,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India; who is of the age of sixty-five years or more at any time during the previous year,—

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 2,25,000                          | Nil;  |
| (2) where the total income exceeds Rs. 2,25,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,25,000;                        |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 7,500 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;  |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 47,500 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an

agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.”;

(ii) in Part IV, in Rule 8,—

(A) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:—

“(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2009, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year



commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2009.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2010, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the

1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2010.”;

(B) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004), or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006), or of the First Schedule to the Finance Act, 2007 (22 of 2007), or of the First Schedule to the Finance Act, 2008 (18 of 2008) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).”.

Sd/-  
V. K. Bhasin  
Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS  
Secretary to Government

Government Central Press, Gandhinagar.





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## PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26<sup>th</sup> August, 2009.

No. RPB/43-09/Act-27-09/E :- The following Act of Parliament is republished for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 20<sup>th</sup> March, 2009/Phalguna 29, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> March, 2009, is hereby published for general information :-

### THE PREVENTION AND CONTROL OF INFECTIOUS AND CONTAGIOUS DISEASES IN ANIMALS ACT, 2009

An

ACT

(Act No. 27 of 2009)

[20<sup>th</sup> March, 2009]

*to provide for the prevention, control and eradication of infectious and contagious diseases affecting animals, for prevention of outbreak or spreading of such diseases from one State to another, and to meet the international obligations of India for facilitating import and export of animals and animal products and for matters connected therewith or incidental thereto.*

WHEREAS economic losses due to infectious and contagious diseases of animals are enormous in the country with some of these diseases constituting a serious threat to the public;

AND WHEREAS many of such animal diseases can be largely prevented by judicious implementation of vaccination programmes or by taking other appropriate and timely measures on scientific lines;

AND WHEREAS such measures are necessary to facilitate the import and export of animals and animal products and to keep in tune with international practices;

AND WHEREAS it has been realised that the prevention, control and eradication of infectious and contagious diseases of animals from India has to be tackled on a national basis so as to avoid adverse impact of such diseases on the economy of the country and for this purpose harmonise the control procedures and to prevent inter-State transmission of animal diseases;

AND WHEREAS the national level handling has to be done with the active involvement of the State Governments, particularly in regard to the precautionary measures required to be taken within their jurisdiction in respect of certain infectious and contagious diseases and the regulation of movement of animals outside their respective areas by timely adoption of appropriate measures;

AND WHEREAS India is a Member Country of the *Office International Des Epizooties, Paris* and it is necessary to implement the general obligations, decisions and recommendations of the said Organisation and abide by the International Animal Health Code stipulated by the said Organisation.

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Prevention and Control of Infectious and Contagious Diseases in Animals Bill, 2009.

(2) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different States or for different areas therein as well as for different provisions of this Act, and any reference in any such provision of this Act to the commencement of this Act shall be construed in relation to any State or area or provision as a reference to the coming into force of this Act or, as the case may be, of that provision, in such State or area.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “animal” means,—

(i) cattle, buffalo, sheep, goat, yak, mithun;

(ii) dog, cat, pig, horse, camel, ass, mule, poultry, bees; and

(iii) any other animal or bird as the Central Government may, by notification, specify;

(b) “Check Post” means any place established as such by the Director to carry out checking of animals for the purpose of this Act;

(c) “Competent Officer” means any person or officer of the Government notified as a Competent Officer under section 17;

(d) “compulsory vaccination” means vaccination of any animal against any scheduled disease in respect of which vaccination is made mandatory under the provisions of this Act;

(e) “controlled area” means any local area which has been declared as such by the State Government under sub-section (1) of section 6;

(f) “defective vaccine” means any vaccine which is expired, breach in seal, contaminated, improperly stored, unlabelled or with mutilated label;

(g) “Director”, in relation to a State, means any officer in charge of the Department of Animal Husbandry or Veterinary Services, or both, notified by the State Government as such for the purpose of this Act;

(h) “free area” means any controlled area which has been declared as such under sub-section (5) of section 6;

(i) “infected animal” means an animal which is infected with any scheduled disease;

(j) “infected area” means an area declared as such under section 20;

(k) “notification” means notification published in the Official Gazette;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “publication” includes propagation of information through the media or newspaper or any other mass media and the means of local communication such as declaration in loud voice and by beating drums in the area;

(n) “Quarantine Camp” means any place declared to carry out quarantine of animals and birds for the purpose of this Act;

(o) “scheduled disease” means any disease included in the Schedule;

(p) “Veterinarian” means a person having a recognised veterinary qualification who, under the law for the time being in force, is allowed to treat animal diseases;

(q) “Veterinary Officer” means any officer, appointed as such by the State Government under clause (b) of section 3;

(r) “Village Officer”, in relation to a village, means any person who is authorised or designated as such in accordance with the qualifications prescribed by the State Government.

## CHAPTER II

## CONTROL OF SCHEDULED DISEASES

3. The State Government may, by notification, appoint—

(a) such number of persons, as it deems proper, to be Veterinarians to undertake inspection and specifying the local limits of their respective jurisdiction; and

(b) such number of Veterinarians, as it deems proper, to be Veterinary Officers, who shall exercise their powers and discharge their duties within the local limits of their jurisdiction as may be specified in the said notification.

Appointment  
of Veterinary  
Officers.

4. (1) Every owner, or any other person, non-governmental organisation, public bodies or the village panchayat, in charge of any animal which he or it has reason to believe to be infective of a scheduled disease shall report the fact to the Village Officer or village panchayat in-charge, who may report the same in writing to the nearest available Veterinarian.

Reporting  
scheduled  
diseases  
obligatory.

(2) The Village Officer shall visit the area falling within his jurisdiction for reporting any outbreak of the disease.

(3) Every Veterinarian shall, on receipt of a report under sub-section (1), or otherwise, if he has reason to believe that any animal is infected with a scheduled disease, report the matter to the Veterinary Officer.

(4) Where in any State there is any occurrence of scheduled disease in relation to any animal, the Director shall send an intimation to the Directors of the States which are in the immediate neighbourhood of the place where there is such occurrence, for taking appropriate preventive measures against the spread of the disease.

5. (1) Every owner or person in charge of an animal, which he has reason to believe is infective of a scheduled disease, shall segregate such animal and have it kept in a place away from all other animals which are healthy, and take all possible steps to prevent the infected animal from coming in contact with any other animal.

Duty to  
segregate  
infected  
animals.

(2) The owner or other person in charge of, or having control over, the animal referred to in sub-section (1) shall confine that animal and prevent it from grazing in a common place or to drink water from any common source including a vessel, pond, lake or river.

(3) All other infected animals shall be segregated by the Municipality, Panchayat or other local administration.

6. (1) The State Government may, with the object of preventing, controlling or eradicating any scheduled disease, by notification, declare any area to be a controlled area in respect of any scheduled disease affecting any species of animal and any other species that may be susceptible to the disease specified in the said notification.

Notification  
of controlled  
areas and free  
areas.

(2) The State Government shall also cause the substance of the notification issued under sub-section (1) to be published in a local newspaper in the vernacular language and by declaration in loud voice and by beating drums in the area.

(3) Where a notification has been issued under sub-section (1), all animals of the species in the controlled area shall be subjected to compulsory vaccination against that disease, and be subjected to such other measures against the disease, in such manner and within such time as the State Government, may, by public notice, direct.

(4) The State Government shall make available necessary vaccine and it shall be obligatory on the part of every owner, or the person in charge of an animal which is required to be vaccinated under sub-section (3), to get the animal compulsorily vaccinated.

(5) Where the State Government is satisfied, on a report received from the Director or otherwise, that, in any controlled area, any of the scheduled diseases affecting any species of animal is no longer prevalent, it may, by notification, declare the area to be a free area in respect of that disease in relation to the particular species of animal.

(6) Where a notification has been issued under sub-section (5), no animal of the species or of any other susceptible species with regard to which it is a free area shall be allowed to enter the free area unless duly immunized by vaccination against that particular disease.

7. (1) Where a notification has been issued under sub-section (1) of section 6 declaring any area as a controlled area in relation to any disease affecting any species of animals, no animal belonging to that species shall be moved from the place where it is kept.

Prohibition of  
movement of  
animals from  
controlled  
area.

(2) The Director may, for the purpose of control, prevention or eradication of any scheduled disease, in respect of any area, by order published in the Official Gazette, prohibit the movement of all animals belonging to any species specified therein, from the place where it is kept, to any other place.



(3) Nothing contained in sub-sections (1) and (2) shall be deemed to prohibit—

(a) the movement of any animal referred to therein, from the place where it is kept, to the nearest place where it can be got vaccinated, so long as the animal is being moved for the purpose of its immunization by vaccination; or

(b) the movement of any such animal, so long as it is accompanied by a valid certificate of vaccination to indicate that the animal is duly immunized against the particular disease and it bears proper mark of such vaccination.

Vaccination,  
marking and  
issue of  
vaccination  
certificate.

8. (1) The vaccine to an animal may be administered by any person competent under the law for the time being in force to administer it, and issue a certificate of administration of vaccination.

(2) Where any animal has been vaccinated for any scheduled disease in compliance with the provisions of sub-section (1), the person vaccinating the animal shall cause to put a mark by branding, tattooing or ear tagging, or in such other manner as the Director may, by general or special order, direct and the same shall, unless otherwise specified by the Director, shall not be removed.

(3) The authority issuing a certificate of vaccination shall specify the date of vaccination, dates of manufacture and expiry of the vaccine and the date up to which the vaccination of the animal with the particular vaccine shall be valid.

Contents of  
vaccination  
certificate.

9. Every vaccination certificate issued under this Act shall be in such form and shall contain such particulars as may be prescribed by the Central Government.

Entry and  
exit of  
animals into  
controlled  
area and free  
area.

10. (1) Where any area has been declared as a controlled area under sub-section (1) of section 6 in respect of any disease affecting any species of animals, no animal belonging to that species shall be taken out of, or brought into that area save as provided in section 16.

(2) The Director may, by notice duly published in the Official Gazette and at least in one daily local newspaper in vernacular language, extend the prohibition contained in sub-section (1) to any other species of animals, if animals belonging to that species are also likely to be infected with that disease.

(3) No carrier of goods or animal shall carry any animal from or out of a controlled area, free area or infected area by land, sea or air unless he complies with the provisions of section 16.

(4) Nothing contained in sub-sections (1) to (3) shall apply to the carriage by railway of any animal referred to in those sub-sections through any area which, for the time being, is declared as a controlled area or infected area so long as the animal is not unloaded (for whatsoever purpose or duration) in any place within that area:

Provided that the State Government may, by notification, declare that any species of animal so carried through any local area within the State shall be duly immunized against such scheduled disease, in such manner and within such time as may be specified in that notification and a certificate of vaccination shall be a pre-requisite for the transportation of the animals by the railways through that area:

Provided further that, where any notification as referred to in the first proviso has been issued, it shall be incumbent on the State Government to intimate that fact to the concerned railway authorities so as to enable them to satisfy themselves about the immunization of the animal before transporting it through the local area of the State.

Precautionary  
measures in  
relation to  
controlled  
areas.

11. No person shall take out of the controlled area—

(a) any animal, alive or dead, which is infected with, or reasonably suspected to have been infected with, any scheduled disease notified under sub-section (1) of section 6,

(b) any kind of fodder, bedding or other material which has come into contact with any animal infected with such disease or could, in any manner, carry the infection of the notified disease; or

(c) the carcass, skin or any other part or product of such animal.

12. No person, organisation or institution shall hold any animal market, animal fair, animal exhibition and carry on any other activity which involves grouping or gathering of any species of animals within a controlled area:

Prohibition of markets, fairs, exhibition, etc., in the controlled areas.

Provided that the Competent Officer may, *suo motu* or on application made to him in this behalf, relax the prohibition in relation to any species of animals, in a case where animals belonging to that species are not susceptible to the scheduled disease and are incapable of carrying it, if he is satisfied that in the public interest it is necessary to accord such relaxation.

13. No person shall bring or attempt to bring into market, fair, exhibition or other congregation of animals or to any public place, any animal which is known to be infected with a scheduled disease.

Prohibition of bringing of infected animals into market and other places.

14. (1) The Director may establish as many Quarantine Camps and Check Posts within the State as may be required—

Check Posts and Quarantine Camps.

(a) for the detention of animals suffering from any scheduled disease or of animals which have come into contact with or have been kept in the proximity of any such infected animal;

(b) for ensuring the prevention of entry into or exit from any controlled area or infected area or free area, of any animal belonging to the species of animals in respect of which a notification, issued under sub-section (1) of section 6, or an order issued under sub-section (2) of section 7, is in force.

(2) Any animal which is required to be detained, inspected, vaccinated, or marked, may be kept in the Quarantine Camp for such period as the Competent Officer may direct.

(3) Every animal detained at a Quarantine Camp shall be under the custody of the person in charge of the camp, and shall be vaccinated and marked.

(4) The officer in charge of the Quarantine Camp shall, at the time of release of an animal from the station, grant a permit, in such form as may be prescribed by the State Government, to the person taking charge of the animal, and every such person shall be bound to produce the permit whenever required to do so by any Competent Officer.

15. (1) Every person in charge of any Check Post or Quarantine Camp shall inspect any animal stopped at the Check Post, or detained therein or at the Quarantine Camp.

Inspection and detention of animals at Check Posts and Quarantine Camps.

(2) The manner of inspection and the period of detention of the animal at the Check Post or at the Quarantine Camp for the purpose of inspection or for the administration of compulsory vaccination, the marking of animals and the form and manner in which permit for entry in respect of any animal may be issued, shall be such as may be prescribed by the State Government.

16. Notwithstanding anything contained in section 10, an animal belonging to the species of animals in respect of which an area has been declared as a controlled or free area in relation to any scheduled disease, which has been duly vaccinated against that disease, shall be allowed to enter into or be taken out of the controlled area or free area, or to be taken out of any other place on the production of a certificate to the effect that vaccine against that disease has been administered and a period of not less than twenty-one days has elapsed thereafter.

Entry and exit of vaccinated animals into controlled and free areas.

17. The State Government may, for the proper implementation of the provisions of this Act, by notification, authorise any person to exercise any power or discharge any duty as a Competent Officer, under this Act, who shall exercise such powers and such duties within the local limits of his jurisdiction as may be specified in the notification.

Appointment of Competent Officers.

Cleaning and  
disinfection  
of carriers.

18. (1) Every common carrier whether a vessel or vehicle shall be cleaned and disinfected immediately before and after the transportation of any animal in that vessel or vehicle, and so also any other place where the animal has been kept in transit.

(2) Where any area has been declared as a controlled area or free area in respect of any scheduled disease affecting any species of animal, the Director may, by an order duly published in the Official Gazette and in a local newspaper in the vernacular language, direct the owner of every vehicle in which any animal belonging to that species is carried, to have the vehicle properly cleaned and disinfected.

Powers of  
entry and  
inspection.

19. Any Veterinary Officer or other Competent Officer may enter upon and inspect any land or building or place, vessel or vehicle, for the purpose of ensuring compliance of the provisions of this Act or the rules or orders made thereunder, by the persons responsible for such compliance.

### CHAPTER III

#### INFECTED AREAS

Declaration of  
infected areas.

20. If the Veterinary Officer, upon receipt of a report from a Veterinarian or otherwise, is satisfied that, in any place or premises falling within his jurisdiction, an animal has been infected with any scheduled disease, or that an animal, which he has reason to believe has been so infected, is kept, may, by notification and publication in at least one local newspaper in the vernacular language and by declaration in loud voice and by beating drums, declare such area as he may deem fit (including the place or premises aforesaid) to be an infected area.

Effect of  
declaration of  
infected areas.

21. (1) Where an area has been declared as an infected area under section 20, all provisions of this Act which are applicable in relation to a controlled area shall *mutatis mutandis* apply thereto as if for the words "controlled area", the words "infected area" have been substituted.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the following further provisions shall apply in relation to an infected area, namely:—

(a) in respect of every animal in that area which is infected or reasonably believed to be infected, with any scheduled disease, the owner or other person in charge of the animal, shall forthwith get it treated by a Veterinarian;

(b) all articles, which are likely to have come into contact with any animal referred to in clause (a), shall be treated or disposed off in such a manner as the Veterinarian may direct;

(c) every Veterinarian shall, for the purpose of inspection, have the power to enter any place or premises where any animal is kept or is likely to be kept;

(d) the owner or any other person in charge of the animal referred to in clause (a) shall keep the animal in isolation forthwith, and also take such other measures as may be necessary for the prevention, treatment and control of the disease as the Veterinarian may direct.

Denotification  
of infected  
area.

22. If the Veterinary Officer, after such enquiry as he may deem fit, is satisfied that there is no longer the threat or danger of any animal being infected with the scheduled disease in any infected area, by notification and publication in a local newspaper in vernacular language, declare that the area is no longer an infected area as aforesaid, whereupon all the restrictions referred to in section 21 shall cease to apply.

### CHAPTER IV

#### INFECTED ANIMALS

Segregation,  
examination  
and treatment  
of infected  
animals.

23. (1) Where the Veterinarian has, on receipt of a report or otherwise, reason to believe that any animal is infected with a scheduled disease, he may, by order in writing, direct the owner or any other person in charge of such animal—

(a) to keep it segregated from other apparently healthy animals; or

(b) to subject it to such treatment as may be required under the circumstances.



(2) Where any action has been taken in pursuance of sub-section (1), the Veterinarian shall forthwith give a detailed report of the incidence of the disease to the Veterinary Officer.

(3) On receipt of a report from the Veterinarian, the Veterinary Officer shall, as soon as possible, examine that animal as well as any other animal which could have come in contact with it, and for that purpose, submit the animal to such test and medical examination as may be required under the circumstances.

(4) If, after such test and examination, the Veterinary Officer is of the opinion that an animal is not infected with any of the scheduled diseases, he shall issue a certificate in writing that the animal is not infected with any such disease.

24. (1) Where the Veterinary Officer considers it necessary for the purpose of ascertaining whether the animal which is suspected to have been infected with any scheduled disease or susceptible to such infection, is actually infected, or for the purpose of ascertaining the nature of the scheduled disease with which an animal is infected, he may draw such samples, as may be required, from the animal for the purpose of carrying out such investigations as he may deem necessary under the circumstances.

Drawing samples from animals.

(2) The Veterinary Officer or any other Competent Officer shall draw samples from any animal for the purposes of ascertaining whether the animal has been vaccinated against any disease, or whether the vaccination of the animal has been effective in conferring it immunity and have the samples examined, in such manner as he may deem necessary.

25. If the Veterinary Officer deems it necessary that an animal, which is infected with a scheduled disease, euthanasia has to be resorted to, for preventing the spread of the disease to other animals in the area or to protect public health if the disease is of zoonotic importance, he may, notwithstanding anything contained in any other law for the time being in force, by an order in writing, direct euthanasia of the animal and the carcass disposed of immediately to his satisfaction.

Resort to euthanasia for infected animals.

26. Every person in possession of carcass (or any part thereof) of any animal, which, at the time of its death, was infected with any scheduled disease or was suspected to have been infected, shall dispose of it in such manner as may be prescribed.

Disposal of carcass.

27. (1) Where the Veterinary Officer or any Veterinarian has reason to believe that the death of an animal has been caused by an infection of any scheduled disease, he may make or cause to be made a post-mortem examination of the animal and for that purpose he may cause the carcass of any such animal to be exhumed where required followed by proper disposal after necessary examination and post-mortem.

Powers of Veterinary Officer and Veterinarian to hold post-mortem examination.

(2) Every examination and post-mortem referred to in sub-section (1) shall be conducted in such manner, and the report of post-mortem shall be in such form, as may be prescribed.

28. Where any animal which is infected or suspected to have been infected is found without any person claiming to be its owner, or where a valid order or direction given in relation to any such animal is not promptly complied with by the owner or other person in control of the animal, it shall be open to the Veterinary Officer or any other Competent Officer, to seize the animal and remove it to a place of isolation or segregation, as he may deem proper.

Seizure and removal of certain animals.

## CHAPTER V

### ENFORCEMENT AND PENALTIES

29. (1) Where by any rule, notification, notice, requisition, order or direction made under this Act, any person is required to take any measure or to do anything—

Enforcement of orders and recovery of expenses.

(a) in respect of any animal, carcass of any animal or other thing in his custody or charge, the same shall be promptly complied with by that person;

(b) in case of any stray or ownerless animal, carcass of such animal or parts thereof, the same shall be promptly complied with by the municipality or Panchayat, as the case may be, at its cost.

(2) If the measures as referred to in sub-section (1) are not taken within such time as may be allowed for the purpose, the authority issuing the notice, requisition, order or direction, may cause the measures to be taken at the cost of the person or municipality or Panchayat, as the case may be, who or which was required to take the measures.

(3) The costs of any measures taken under sub-section (2), shall be recoverable from the person or the municipality or Panchayat, as the case may be, concerned in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court, as if such costs were a fine imposed by a Court. 2 of 1974.

Village  
Officers, etc.,  
to assist.

30. All Municipal, Panchayat or Village Officers and all officers of the rural and dairy development, revenue, agriculture, animal husbandry and veterinary departments of the State Government, shall be bound—

(a) to give immediate information to the Veterinary Officer and to the Veterinarian having jurisdiction in the area regarding the prevalence of a scheduled disease amongst any animal or species of animals, in the area;

(b) to take all necessary measures to prevent the outbreak or spread of any scheduled disease; and

(c) to assist the Veterinary Officer and the Veterinarian in the discharge of their duties or in the exercise of their powers under this Act.

31. If any person issues a vaccination certificate,—

(a) without authority or competence in that behalf, or

(b) after administering the vaccine which is known to be defective in any manner,

Penalty for  
issuing  
vaccination  
certificate  
without  
authority or  
administering  
defective  
vaccine.

he shall be guilty of an offence punishable with a fine of five thousand rupees or in case of non-payment of fine with imprisonment which may extend to one month, and in the case of any subsequent offence, with fine of ten thousand rupees or with imprisonment which may extend to three months.

Penalties.

32. Any person who contravenes the provisions of this Act or obstructs the Competent Officer in performing his duties shall be guilty of an offence punishable with fine which may extend to one thousand rupees, and in case of failure to pay the penalty with imprisonment for a term which may extend to one month; and in the case of any subsequent offence (whether under the same provision or any other provision of this Act except in case of sections 31 and 33) with a fine of two thousand rupees, or with imprisonment for a term which may extend to two months in case of non-payment of the penalty.

Penalty for  
placing  
infected  
animal or  
carcass in  
river, etc.

33. Whoever places or causes or permits to be placed in any river, lake, canal or any other water body, the carcass or any part of the carcass of any animal which at the time of its death was known to be infected, shall be guilty of an offence and, on conviction, be punished, in the case of a first offence with fine of two thousand rupees or with imprisonment of one month in case of non-payment of fine and in the case of subsequent conviction with a fine of five thousand rupees or imprisonment for a term which may extend to three months or with both.

Offences by  
companies.

34. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a co-operative society registered or deemed to be registered under any law for the time being in force, a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

## CHAPTER VI

### PRECAUTIONARY MEASURES ON CAUSATIVE ORGANISM, ETC.

35. (1) In every institution, laboratory or clinic, engaged in the manufacture, testing or research, related to vaccines, sera, diagnostics or chemotherapeutic drugs and aimed at the prevention or treatment of any scheduled disease, adequate precautionary measures shall be taken—

Prevention of escape of causative organism.

(a) to ensure that the causative organism of any scheduled disease does not escape or otherwise get released;

(b) to guard against any such escape or release; and

(c) to warn and to protect everyone concerned in the event of any escape.

(2) Notwithstanding anything contained in any other law for the time being in force, every animal—

(a) used for the manufacture, testing or research as referred to sub-section (1), or

(b) which is likely to carry or transmit any scheduled disease,

shall be promptly administered euthanasia and disposed of by the person in charge of or having control of the institution, laboratory or clinic, as the case may be, referred to in that sub-section.

(3) Every person who is in charge of or having control of an institution, laboratory or clinic referred to in sub-section (1) comply with the provisions of sub-section (1) and sub-section (2); and in the event of non-compliance he shall be guilty of an offence punishable with fine which may extend to twenty thousand rupees or imprisonment for a term which may extend to six months or with both, and in case the establishment is in commercial manufacturing of vaccines or medicine, a temporary suspension of licence upto a period of one year may also be imposed.

## CHAPTER VII

### MISCELLANEOUS

36. The State Government may, by notification, delegate to any officer or authority subordinate to it, all or any of the powers conferred on it by or under this Act, except the powers to make rules under sub-section (2) of section 42.

Power to delegate.

37. All officers and authorities under this Act shall exercise their powers and discharge their duties conferred or imposed on them by or under this Act, in accordance with such orders, not inconsistent with the provisions of this Act, as the Central Government or the State Government may, from time to time, make.

Officers and authorities to function subject to Government control.

38. (1) The Central Government may, by notification, add to, or omit from the Schedule any animal disease and the said disease shall, as from the date of the notification, be deemed to have been added to, or omitted from, the Schedule.

Power to amend the Schedule.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before each House of Parliament.



Power to issue directions.

39. The Central Government may, with the object of prevention, control and eradication of any infectious or contagious disease of animals, issue such directions to the State Government or other authorities under this Act, from time to time, including directions for furnishing such returns and statistics on scheduled diseases, and vaccination, as it may deem fit and every such direction shall be complied with.

Certain persons to be public servants.

40. Every Competent Officer, Director and Veterinary Officer, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Power to remove difficulties.

41. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power of Central Government to make rules.

42. (1) The Central Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of vaccination certificate and the particulars which such certificate shall contain, under section 9;

(b) the manner of disposal of carcass, under section 26;

(c) the manner of conducting examination and post-mortem under sub-section (1) and the form of report of post-mortem under sub-section (2) of section 27;

(d) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

Power of State Government to make rules.

43. (1) The State Governments may, by notification and with the prior approval of the Central Government, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of permit to be granted by the officer in charge of a Quarantine Camp, under sub-section (4) of section 14;

(b) the manner of inspection and the period of detention of an animal at a Check Post or at a Quarantine Camp for the administration of compulsory vaccination and marking of animals and the form and manner of issue of entry permit, under sub-section (2) of section 15;

(c) any other matter in respect of which rule is to be or may be made by the State Government.

Laying of rules.

44. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be, after it is made, before the State Legislature.

Repeal and  
savings.**45. On the commencement of this Act—**

13 of 1899.

(i) The Glanders and Farcy Act, 1899;

5 of 1910.

(ii) The Dourine Act, 1910; and

(iii) any other corresponding law of any State, so far as it is inconsistent with the provisions of this Act,

shall stand repealed:

Provided that nothing contained in this section shall—

(a) affect the previous operation of any such provision of law or anything duly done or suffered thereunder;

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under any such provision of law;

(c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any such provision of law; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and every such investigation, legal proceeding or remedy may be continued, instituted or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid provisions of law had continued:

Provided further that, anything done or any action taken under any such provision of law, including any notification, order, notice or receipt issued or declaration made, shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, issued or made under the corresponding provisions of this Act, and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.

THE SCHEDULE  
[See sections 2 (o) and 38]

(a) Multiple species diseases

1. Anthrax.
2. Aujeszky's disease.
3. Bluetongue.
4. Brucellosis.
5. Crimean Congo haemorrhagic fever.
6. Echinococcosis/hydatidosis.
7. Foot and mouth disease.
8. Heartwater.
9. Japanese encephalitis.
10. Leptospirosis.
11. New world screwworm (*Cochliomyia hominivorax*).
12. Old world screwworm (*Chrysomya bezziana*).
13. Paratuberculosis.
14. Q fever.
15. Rabies.
16. Rift Valley fever.
17. Rinderpest.
18. Trichinellosis.
19. Tularemia.
20. Vesicular stomatitis.
21. West Nile fever.

(b) Cattle diseases

1. Bovine anaplasmosis.
2. Bovine babesiosis.
3. Bovine genital campylobacteriosis.
4. Bovine spongiform encephalopathy.
5. Bovine tuberculosis.
6. Bovine viral diarrhoea.
7. Contagious bovine pleuropneumonia.
8. Enzootic bovine leucosis.
9. Haemorrhagic septicaemia.
10. Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis.
11. Lumpy skin disease.
12. Malignant catarrhal fever.
13. Theileriosis.
14. Trichomonosis.
15. Trypanosomosis.



**(c) Sheep and goat diseases**

1. Caprine arthritis/encephalitis.
2. Contagious agalactia.
3. Contagious caprine pleuropneumonia.
4. Enzootic abortion of ewes (ovine chlamydiosis).
5. Maedi-visna.
6. Nairobi sheep disease.
7. Ovine epididymitis (*Brucella ovis*).
8. Peste des petits ruminants.
9. Salmonellosis (*S. abortusovis*).
10. Scrapie.
11. Sheep pox and goat pox.

**(d) Equine diseases**

1. African horse sickness.
2. Contagious equine metritis.
3. Dourine.
4. Equine encephalomyelitis (Eastern).
5. Equine encephalomyelitis (Western).
6. Equine infectious anaemia.
7. Equine Influenza.
8. Equine piroplasmosis.
9. Equine rhinopneumonitis.
10. Equine viral arteritis.
11. Glanders.
12. Surra (*Trypanosoma evansi*).
13. Venezuelan equine encephalomyelitis.

**(e) Swine diseases**

1. African swine fever.
2. Classical swine fever.
3. Nipah virus encephalitis.
4. Porcine cysticercosis.
5. Porcine reproductive and respiratory syndrome.
6. Swine vesicular disease.
7. Transmissible gastroenteritis.

**(f) Avian diseases**

1. Avian chlamydiosis.
2. Avian infectious bronchitis.
3. Avian infectious laryngotracheitis.
4. Avian mycoplasmosis (*M. gallisepticum*).
5. Avian mycoplasmosis (*M. synoviae*).
6. Duck virus hepatitis.
7. Fowl cholera.

8. Fowl typhoid.
9. Highly pathogenic avian influenza and low pathogenic avian influenza in poultry.
10. Infectious bursal disease (Gumboro disease).
11. Marek's disease.
12. Newcastle disease.
13. Pullorum disease.
14. Turkey rhinotracheitis.

**(g) Lagomorph diseases**

1. Myxomatosis.
2. Rabbit haemorrhagic disease.

**(h) Bee diseases**

1. Acarapisosis of honey bees.
2. American foulbrood of honey bees.
3. European foulbrood of honey bees.
4. Small hive beetle infestation (*Aethina tumida*).
5. *Tropilaelaps* infestation of honey bees.
6. Varroosis of honey bees.

**(i) Fish diseases**

1. Epizootic haematopoietic necrosis.
2. Infectious haematopoietic necrosis.
3. Spring viraemia of carp.
4. Viral haemorrhagic septicaemia.
5. Infectious pancreatic necrosis.
6. Infectious salmon anaemia.
7. Epizootic ulcerative syndrome.
8. Bacterial kidney disease (*Renibacterium salmoninarum*).
9. Gyrodactylosis (*Gyrodactylus salaris*).
10. Red sea bream iridoviral disease.

**(j) Mollusc diseases**

1. Infection with *Bonamia ostreae*.
2. Infection with *Bonamia exitiosa*.
3. Infection with *Marteilia refringens*.
4. Infection with *Mikrocytos mackini*.
5. Infection with *Perkinsus marinus*.
6. Infection with *Perkinsus olseni*.
7. Infection with *Xenohalotis californiensis*.

**(k) Crustacean diseases**

1. Taura syndrome.
2. White spot disease.
3. Yellowhead disease.
4. Tetrahedral baculovirosis (*Baculovirus penaei*).

5. Spherical baculovirus (*Penaeus monodon*-type baculovirus).

6. Infectious hypodermal and haematopoietic necrosis.

7. Crayfish plague (*Aphanomyces astaci*).

(f) Other diseases

1. Camelpox.

2. Leishmaniosis.

Sd/-

N. L. Meena

Addl. Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H.D.VYAS

Secretary to Government

Government Central Press, Gandhinagar.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. L] MONDAY, NOVEMBER 30, 2009/AGRAHAYANA 9, 1931

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 27<sup>th</sup> November, 2009.

No. RPB/6-09/Ord.-06-09/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 14<sup>th</sup> October, 2009 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 14<sup>th</sup> October, 2009./Asvina 22, 1931 (Saka)

THE COMPETITION (AMENDMENT) ORDINANCE, 2009

No. 6 of 2009

Promulgated by the President in the Sixtieth Year of the Republic of India.

A Ordinance further to amend the Competition Act, 2002.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Competition (Amendment) Ordinance, 2009.

Short title and commencement.

(2) It shall come into force at once.

2. In section 66 of the Competition Act, 2002,—

Amendment of section 66 of Act 12 of 2003..

(a) in sub-section (1), the proviso and the Explanation thereto shall be omitted;

(b) in sub-section (3), for the words, brackets and figure “after the expiry of two years referred to in the proviso to sub-section (1)”, the words, brackets and

figures "on the commencement of the Competition (Amendment) Ordinance, 2009" shall be substituted;

(c) in sub-section (4), for the words, brackets and figure "on or before the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "immediately before the commencement of the Competition (Amendment) Ordinance, 2009, shall, on such Commencement" shall be substituted;

(d) in sub-section (5), for the words, brackets and figure "after the expiry of two years referred to in the proviso to sub-section (1)", the words, brackets and figures "on the commencement of the Competition (Amendment) Ordinance, 2009" shall be substituted.

Sd/-

**PRATIBHA DEVISINGH PATIL,**  
President.

**T.K. VISWANATHAN,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.



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### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

GOVERNMENT OF GUJARAT  
LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT  
Sachivalaya, Gandhinagar, 27<sup>th</sup> November, 2009

No.RPB/9-09/Ord.-09-09/E :- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 21<sup>st</sup> October, 2009 is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

THE ESSENTIAL COMMODITIES (AMENDMENT AND VALIDATION)  
ORDINANCE, 2009

No. 9 OF 2009

Promulgated by the President in the Sixtieth Year of the Republic of India.

An Ordinance further to amend the Essential Commodities Act, 1955 and to make provisions for validation of certain orders issued by the Central Government determining the price of levy sugar and actions taken under those orders and for matters connected therewith.

WHEREAS the Supreme Court, in *Modi Industries Ltd. and Another versus Union of India and Ors* [T.C. (Civil) No. 9/1990] on the 20<sup>th</sup> February, 1996 and later on in *Bharat Sugar Mills Ltd. and Another versus Union of India and Others* [T.C. (Civil) Nos. 15-17/1993] on the 19<sup>th</sup> August, 1998 and in *Union of India and Others versus Triveni Engineering Works Ltd. and Others* [(1999) (9) SCC 245] on the 2<sup>nd</sup> February, 1999, upheld the determination of price of levy sugar in respect of the sugar season 1982-1983 by taking note of the fact that while determining the price of levy sugar neither the additional price under clause 5 A of the Sugarcane (Control) Order, 1966 nor the mopping up of excess realisation were factored into consideration;

AND WHEREAS the Supreme Court in Mahalakshmi Sugar Mills Company Limited and Another *versus* Union of India and Others [2008 (6) Scale 275] by its judgment dated the 31<sup>st</sup> March, 2008 has considered the scope and ambit of sub-section (3C) of section 3 of the Essential Commodities Act, 1955 and construed in relation to the sugar seasons 1983-1984 and 1984-1985 that both the additional price paid to the cane growers in terms of clause 5A of the Sugarcane (Control) Order, 1966 made under the said Act and the State Advised Price (SAP) or actual price of sugarcane paid should be factored in the computation of price of levy sugar;

AND WHEREAS there have been conflicting decisions as to the factors to be taken into consideration in determining the price of levy sugar;

AND WHEREAS it has become necessary to clarify for certainty and to have a uniform policy and factors to be taken into consideration for the determination of price of levy sugar and also to clarify that the State Governments declaring the SAP also bear the additional expenditure connected thereto in so far as the impact on price of levy sugar in respect of sugar factories located in those States is concerned;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

Short title  
and  
commence-  
ment

1. (1) This Ordinance may be called the Essential Commodities (Amendment and Validation) Ordinance, 2009.

(2) It shall come into force at once.

Amendment  
of section 3  
of Act 10 of  
1955.

2. In section 3 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act)-

(a) in sub-section (3C), the existing *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1<sup>st</sup> day of October, 1974, namely:-

'*Explanation II*- For the removal of doubts, it is hereby declared that the expressions "minimum price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d) do not include the additional price of sugarcane paid or payable under clause 5A of the Sugarcane (Control) Order, 1966 and the price paid or payable under any order or enactment of any State Government and any price agreed to between the producer and the grower of sugarcane or a sugarcane growers' co-operative society' ;

(b) on and from the 1st day of October, 2009, for sub-section (3C) and the *Explanations* thereunder, the following shall be, and shall be deemed to have been substituted, namely :-

'(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issued under sub-section (3A) or any such notification, having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section



(3), there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to-

(a) the fair and remunerative price, if any, fixed for sugarcane by the Central Government under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) the securing of a reasonable return on the capital employed in the business of manufacturing of sugar,

and different prices may be determined from time to time for different areas or for different factories or for different kinds of sugar:

Provided that where only provisional determination of price of levy sugar has been done in respect of sugar produced upto the sugar season 2008-2009, the final determination may be done under this sub-section as it stood immediately before the 1<sup>st</sup> day of October, 2009.

*Explanation.*- For the purposes of this sub-section,-

(a) "fair and remunerative price" means the price of sugarcane fixed by the Central Government under this section ;

(b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase centre to factory gate, to the extent it is borne by the producer;

(c) "producer" means a person carrying on the business of manufacturing sugar;

(d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacture of sugar including procurement of sugarcane on fair and remunerative price fixed under this section.!

3. (1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority-

(a) all things done or all actions taken by the Central Government under the specified orders shall be deemed to be and deemed to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for the payment or adjustment of any payment in relation to the determination of price of levy sugar under any specified order;

(c) no court shall enforce any decree or order directing any payment in relation to the determination of price of levy sugar under any specified order;

(d) no claim or challenge shall be made in, or entertained by any court, tribunal or other authority on the ground that the Central Government did not take into consideration any factors specified in sub-section (3C) of section 3 of the

Validation of action taken, etc., under specified orders issued under sub-section (3C) of section 3 of the principal Act.

principal Act in the determination of price of levy sugar under any specified order.

(2) In this section, "specified order" means any order relating to the determination of price of sugar issued under sub-section (3C) of section 3 of the principal Act before the commencement of this Ordinance in relation to sugar produced in any sugar season up to and including sugar season 2008-2009.

Sd/-

**PRATIBHA DEVISINGH PATIL**  
**PRESIDENT**

**V. K. BHASIN**

Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

**H.D.VYAS**

Secretary to Government